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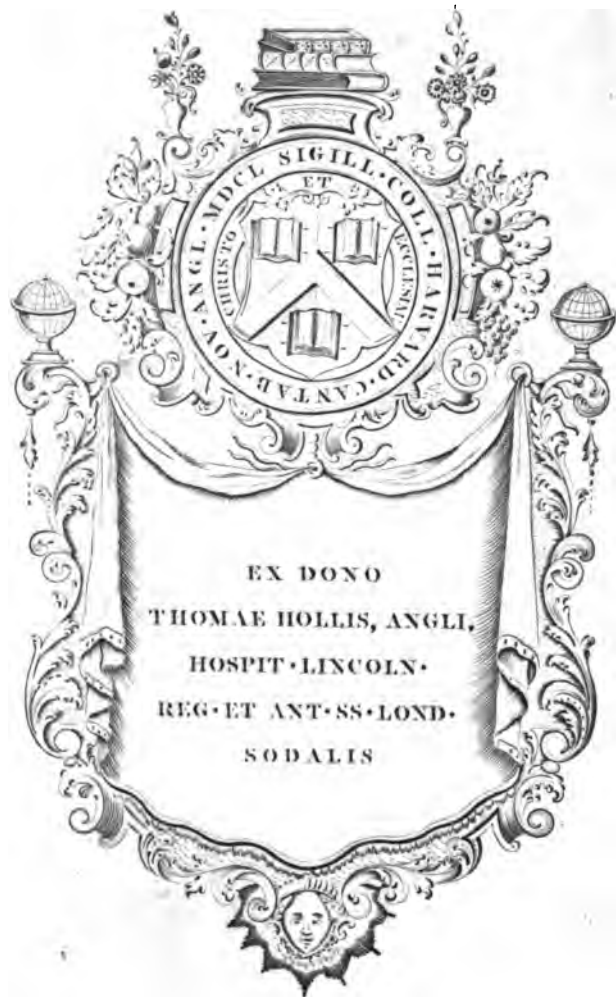
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B I L L S,

PUBLIC:

SIX VOLUMES.

—(1.)—

ADMIRALTY JURISDICTION

TO

CORNWALL, DUCHY OF.

Session

15 November 1837 — 16 August 1838.

VOL. I.

1838.

Brit Doc 428

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72-223
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1837-8.

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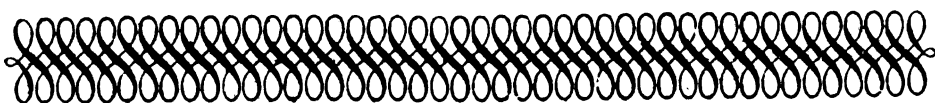
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30 April 1838.—1 VICT.



A

B I L L

To authorize the establishing a Court or Courts with Criminal and Admiralty and Civil Jurisdiction in China.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~F~~~~O~~~~R~~~~E~~~~A~~~~S~~ it is expedient, with a view to the preservation of good order among Her Majesty's subjects trading or resorting to the dominions of the Emperor of China, and for the purpose of promoting the amicable intercourse between such subjects of Her Majesty and the subjects of the Emperor of China, and also for the prevention of disputes by which such intercourse might be interrupted, that a British Court or Courts, with Criminal and Admiralty and Civil Jurisdiction, should be established in the said dominions, or in the vicinity thereof; ~~BE it therefore Enacted,~~ by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for Her Majesty, by Letters Patent, under the Great Seal, to establish a Court or Courts of Justice, with Criminal and Admiralty and Civil Jurisdiction and Authority, within any part of the dominions of the Emperor of China, or in the ports or havens thereof, or within Three Leagues of the coast, for the trial of all offences committed by Her Majesty's subjects within the said dominions, or in the ports or havens thereof, or on the high seas, within One hundred Miles from the coasts of the said dominions; and also for the deciding of all civil cases which shall be brought before such Court or Courts on any subject, matter or thing relating to trade or commerce, arising within the jurisdiction of such Courts, with right of appeal, either to Her Majesty in Council, or to any of Her Majesty's Supreme Courts of Justice in the East Indies, as Her Majesty may be pleased,

335.

Preamble.

1.
Her Majesty may establish Courts with Criminal, Admiralty and Civil Jurisdiction in China; and by Order in Council make Rules, &c. for regulating such Courts.

pleased, by any Order or Orders in Council, to appoint; and it shall be lawful for Her Majesty to appoint a Judge or Judges, and proper Officers for such Courts, and to establish forms of proceeding in all matters criminal and civil coming under the cognizance of such Courts; and also by any Order or Orders in Council and either by reference to the provisions of any Act or Acts now in force for administering justice in the East Indies, or otherwise, as may be necessary or expedient, to make and issue any rules, regulations, directions and restrictions touching and concerning the conduct, rights and duties of Her Majesty's subjects trading or being within the jurisdiction of such Courts, and touching and concerning the exercise of such Criminal, Admiralty and Civil Jurisdiction, with a view to the enforcing such rules, regulations, directions and restrictions; and it shall also be lawful for Her Majesty, by any Order or Orders in Council, to authorize the sending out of the limits of the jurisdiction of the said Courts, any person who shall be duly convicted of having wilfully violated any such rules, regulations, directions or restrictions; and it shall also be lawful for Her Majesty, by any Order or Orders in Council, to impose penalties, forfeitures and imprisonment for any breach of any such rules, regulations, directions or restrictions, with reference to any offences or cases triable by such Courts, which penalties, forfeitures and imprisonment shall be enforced in such manner as in the said Order or Orders in Council shall be specified; and all such Orders in Council shall have the full force and effect of laws, in the same manner as if they were enacted in and made part of this Act.

2.
May by
Orders in
Council regu-
late proceed-
ings when
Subjects of
China or of
other States
require their
differences
with British
Subjects to be
decided by
these Courts.

AND whereas cases may arise within the jurisdiction of the said Courts wherein the interposition of such Courts may be required by the subjects of Foreign Powers trading to the said dominions, or by the subjects of the Emperor of China, in the determination of differences or disputes between such persons and British subjects; BE it therefore Enacted, That it shall be lawful for Her Majesty, by any Order or Orders in Council, to make and issue in the same manner as aforesaid directions and regulations for the guidance of such Courts in such cases.

3.
Orders in
Council not
to come into
force for Six
Months from
their date;
and to be
published in
the Gazette,
and laid be-
fore Parlia-
ment.

Provided always, and be it Enacted, That no Order in Council issued by the authority of this Act shall come into operation until the expiration of *Six Months* from the day of its date; and that every such Order in Council shall be published in the London Gazette within *One Month* from the day of its date, and shall be laid before both Houses of Parliament within the like term of *One Month* from its date, if Parliament be then sitting; and in case Parliament shall not at the time be sitting, then within *One Month* after the next meeting of Parliament.

AND

AND whereas by an Act passed in the Session of Parliament holden in the third and fourth year of the reign of his late Majesty King WILLIAM the Fourth, intituled, " An Act to regulate the Trade to China and India," authority was given to appoint Superintendents of Trade to China ; NOW be it Enacted, That all the Provisions of the said Act which relate to such Superintendents shall be equally applicable to any Consul-General, Consul or Vice-Consul whom Her Majesty may hereafter appoint to reside in China ; and all acts, matters and things done by any such Consul-General, Consul or Vice-Consul shall be of equal validity and effect as if done by such Superintendents as aforesaid.

4.
Provisions of
3 & 4 Will. 4.
c. 93. relative
to Superin-
tendents, to
be applicable
to Consuls in
China.

And be it Enacted, That so much of the aforesaid Act as empowered His Majesty by any Order or Orders in Council to impose, and to authorize the collection of, certain Duties on the Tonnage and Cargoes of Ships belonging to British subjects, which might enter any port or place where the Superintendents mentioned in the said Act, or any of them, should be stationed, is hereby repealed.

5.
Power to levy
Duties on
British Ships
and Goods in
Ports of China
(3 & 4 Will. 4.
c. 93. s. 8)
repealed.

And be it Enacted, That if any Suit or Action shall be brought against any person or persons for any thing done in pursuance of this Act, or in pursuance of any orders or regulations made by virtue thereof, then and in every such case such action or suit shall be commenced or prosecuted within *Six Months* after the fact was committed, and not afterwards, except where the cause of action shall have arisen in any place not within the jurisdiction of any of Her Majesty's Courts having Civil Jurisdiction, and then within *Six Months* after both parties shall have been within the jurisdiction of any such Court ; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen in any place not within the jurisdiction of any of Her Majesty's Courts having Civil Jurisdiction ; and the Defendant or Defendants shall be entitled to the like notice and shall have the like privilege of tendering amends to the Plaintiff or Plaintiffs, or their Agent or Attorney, as is provided in actions brought against any Justice of the Peace for acts done in the execution of his office, by an Act passed in the twenty-fourth year of the reign of King GEORGE the Second, intituled, " An Act for the rendering Justices of the Peace more safe in the execution of their Office, and for indemnifying Constables and others acting in obedience to the Warrants ;" and if the Plaintiff or Plaintiffs shall become nonsuit, or discontinue any such action after the Defendant or Defendants shall have appeared, or if a verdict shall pass against the Plaintiff or Plaintiffs, or if upon demurrer judgment shall be taken against the Plaintiff or Plaintiffs, the Defendant or Defendants shall and may recover Treble costs, and have the like remedy for the recovery thereof as any Defendant or Defendants hath or have in any Courts of Law.

6.
Regulating
Suits and
Actions
brought
against Per-
sons for any
thing done
under this
Act.

Courts in China.

A

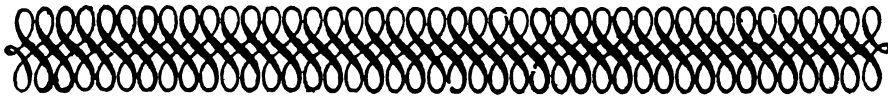
B I L L

To authorize the establishing a Court or
Courts with Criminal and Admiralty and
Civil Jurisdiction in China.

*(Prepared and brought in by
Lord Viscount Palmerston and Mr. Attorney
General.)*

*Ordered, by The House of Commons, to be Printed,
30 April 1838.*

25 June 1838.—2 VICT.



(Ireland.)

A

B I L L

To prevent improper Persons from having Arms in Ireland, and to regulate the Importation of Arms, Gunpowder and Ammunition into Ireland, and the making, removing, selling and keeping of Arms, Gunpowder and Ammunition there.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

- W**H ~~HER~~ ~~AS~~ it has been found necessary to make provisions Preamble.
for the purposes mentioned in the title of this Act by different
Acts of Parliament: And whereas the said provisions will shortly
cease and determine; but it is expedient that they should be amended
5 and embodied into one Act of Parliament; ~~BE~~ ~~it therefore Enacted,~~
by The QUEEN's most Excellent MAJESTY, by and with the
Advice and Consent of the Lords Spiritual and Temporal, and Com-
mons, in this present Parliament assembled, and by the Authority
of the same, THAT every person in Ireland, who hath or shall have
10 Arms in his or her possession at the time of the passing of this Act,
or at any time before the sessions of the peace for their respective
counties which shall be held next after the *passing of this Act*, and
who shall not have registered the same as now required by law, shall, at
the said sessions of the peace which shall be held next after the passing
15 of this Act, for the county, town or city wherein they shall reside,
respectively deliver, or cause to be delivered, in open court, to the Jus-
tices then present, a written notification, signed by him or her, specify-
ing therein the place, parish, barony or townland in which he or she
shall be then resident, or if in a county of a town or city, the parish,
20 townland or street in which he or she keeps Arms, and the place or
places where the same are usually kept, and the number and descrip-
tion of such Arms; accompanied by an affidavit, sworn before some
536. J.
Persons hav-
ing Arms,
shall deliver
a List thereof
in manner
herein di-
rected, ac-
companied by
an Affidavit.
Justice

Justices may
grant Licenses
to retain the
same.

Notifications,
&c. to be de-
livered to
Clerks of the
Peace, who
shall register
them.

Justice of the Peace for such county, town or city, by the person signing such notification, that such notification is true, and that he or she believes that he or she is by law entitled to keep Arms, which notification and affidavit shall be read aloud in open court; and if the Justices then present, or the majority of them, shall consider the person delivering such notification to be by law entitled to keep Arms, and to be a fit and proper person to keep Arms, they shall thereupon sign and deliver to such person a license, authorizing such person to keep Arms, and specifying therein the number and description of Arms which such license is to authorize him or her to keep; and shall deliver such notification, specifying at the foot or back thereof the number and description of Arms, to the acting Clerk of the Peace, who shall register the same in books (or in a book, if in a county of a town or city), one whereof to be kept for every barony or half barony in the county, in alphabetical order, with the names and places of abode of every person making such notification, according to their respective baronies or half baronies, where the place of abode shall be specified to be in a barony, or half barony, for which no fee or reward whatever shall be received by such Clerk of the Peace; which book shall be kept by such Clerk of the Peace at his office, in the county, town or city, and shall at all seasonable times be open to the inspection of any Justice of the Peace of such county, town or city, or any chief constable of the constabulary force for such county, town or city, and from which every such Justice and chief constable shall be at liberty from time to time to make such extracts as he shall deem fit: Provided always, That if the majority of the Justices so assembled at the sessions of the peace shall refuse to grant such license to any person who is by law entitled to keep Arms, the person to whom such license is refused, may appeal from the decision of such Justices, if in the county of any city or town, to the next quarter sessions of any county at large adjoining to the county of such city or town, and if in a county at large, then to the following session of the same county.

2.
Justices at
Sessions may
grant Licenses
for keeping
Arms to
Persons who
make appli-
cation and
Affidavit as
before.

And be it Enacted, That it shall be lawful for the Justices of the Peace, upon an application in writing signed by any person for a license to keep Arms, specifying in like manner his or her residence, accompanied by an affidavit, sworn by the person signing the application that he or she believes he or she by law is entitled to keep arms, to sign and deliver at any Sessions of the Peace to be held for the county, town or city in which such person resides, a license, authorizing such person to keep Arms, specifying therein the number and description of Arms which such license is to authorize him or her to keep, which application, with the number and description of Arms endorsed thereon, shall be delivered by them to the acting Clerk of the Peace, who is required to register the same in like manner, for

for which no fee or reward whatsoever shall be received by the Clerk of the Peace.

And be it Enacted, That whenever any person who shall have obtained any license to keep Arms under this Act, shall, during the continuance of such license, change his or her place of abode, such person shall deliver a certificate of such change, specifying the house to which such person shall have removed, to the Clerk of the Peace for the county, town or city in which such person was resident at the time of granting such license; and such certificate shall be registered in like manner as the notifications and applications required by this Act.

3.
Parties licensed shall certify to Clerk of the Peace their change of Residence.

And be it Enacted, That any person who shall, after the said Sessions of the Peace for the county, town or city where he or she shall reside, which shall be held next after the passing of this Act, have in his or her custody any Arms that shall not have been registered by him or her as aforesaid, shall, upon being convicted thereof on the testimony of one or more credible witnesses on oath before any magistrate, for the first offence forfeit the sum of *Ten Pounds*, to be levied by sale of the goods and chattels of such person by the warrant of such Magistrate, or, in default of payment, be imprisoned by such Magistrate for the space of Two Months; and for the second and every other offence shall forfeit the sum of *Twenty Pounds*, to be levied in like manner, or, in default of payment, be imprisoned for the space of Four Months; and all such Arms shall be forfeited to the use of Her Majesty, Her heirs and successors.

4.
Penalty on Persons who shall have Arms not registered after time limited.

And be it Enacted, That any person who shall make such notification as aforesaid, of his or her having Arms, and shall obtain such license as aforesaid, shall, at any time when required by any Justice of the Peace within his jurisdiction, or any such chief constable as aforesaid, which requisition shall be made in writing under the hand of such Justice or chief constable, deliver to such Justice or chief constable an exact list or inventory of all the Arms in his or her possession, verified by his or her affidavit, to be made before any Justice of the Peace, and so from time to time as often as he or she shall be so required, but not oftener than once in every *Three Months*.

5.
Inventory of Arms kept to be delivered to Justice or Chief Constable as often as shall be required.

And be it Enacted, That it shall and may be lawful for the Justices of the Peace at any sessions of the peace to withdraw any license theretofore given, and to cause the name of such person, as they in their discretion shall at such sessions deem an improper person to be intrusted with Arms, to be erased out of the registry of Arms, and cause a notice to be served on such person, or to be posted on his dwelling-house specified in the said registry to be the residence of such person,

6.
Justices may withdraw Licenses, and cause Names to be erased, and give Notice to such Persons.

person, or, in case of his or her having previously certified to the Clerk of the Peace of the county, that he or she had changed his or her dwelling-house, then on the house to which he shall in such certificate have stated that he or she had removed, signed by any one of the Justices of such session, and by the Clerk of the Peace, under the authority of such Justices, or the majority of them, in such sessions assembled, that such license is withdrawn. 5

7.
Persons
served with
such Notices
who do not
deliver their
Arms to
neighbouring
Magistrates,
shall be liable
to forfeiture
and punish-
ment.

And be it Enacted, That if any person on whom such notice shall be served shall not within *Forty-eight* Hours after service of such notice upon him or her, or at his or her dwelling-house as aforesaid, 10 deliver to the next resident Magistrate, or some neighbouring Magistrate at his place of abode, all such Arms as were so registered, or account for the same to the satisfaction of such Magistrate, such person shall be deemed to have in his or her custody Arms that have not been registered, and shall be subject and liable to the forfeiture and punish- 15 ment hereinbefore enacted against such offence; except where it shall appear to the Magistrates before whom such offence is prosecuted, that the delay arose from accidental circumstances, and not from wilful neglect.

8.
Justices, &c.
may enter
Houses on
suspicion of
having Arms
unregistered,
&c.

And be it Enacted, That it shall and may be lawful for any person 20 duly authorized thereto, by warrant under the hands and seals of any Two Justices of the Peace, (which warrant shall not be granted except on the information given to such Justices on the oath of one or more credible witness or witnesses, that to the best of his or their knowledge or belief such person is unlawfully in possession of Arms), to search 25 for Arms in the house or houses or grounds of any person in Ireland, not having made such notification, or obtained such license as aforesaid, and also in the house or houses or grounds of any person who, having made such notification, or obtained such license, shall refuse or neglect, for *Forty-eight* Hours, to deliver such list or inventory, or 30 who shall have delivered a false list or inventory, or whose license shall have been withdrawn as aforesaid, or who shall be charged on such information with keeping any Arms not specified in such license; and in case admission shall be refused or not obtained within a reason- 35 able time after it shall have been first demanded, to enter by force into every such house, and every part thereof, and if any Arms shall be found in the possession of any such person respectively, save in the house of a person giving such list or inventory, and if any Arms shall be found in the house of such person giving such inventory, and not specified therein, or in his or her license, to seize and carry away 40 the same for the use of Her Majesty.

9.
Penalty for
denying the
possession of
unregistered
Arms.

And be it Enacted, That if upon any search made under the authority of this Act, any person or persons in whose house, or in any out-house

out-house or land attached thereto, such search may be made, or any inmate of such house above the age of Sixteen Years shall, on being interrogated by the person authorized by law to make such search, deny that any Arms, Weapons or Gunpowder are in such house or land, and any Arms, Weapons or Gunpowder for which search may be so made, and which may be seized under the provisions of this Act, shall afterwards upon said search be found in possession of any such person, or deposited in such house or lands, to his or her knowledge, every such person shall forfeit the sum of *Twenty Pounds*, or, in default of payment, be imprisoned for the space of *Three* calendar Months.

And be it Enacted, That if any Arms, Weapons or Gunpowder, for which search may be made under the authority of this Act, shall be found secreted or concealed in any house, out-house or land, under circumstances which denote that the same were so secreted or concealed therein, in order to prevent the same from being discovered by any person authorized by law making search for the same, the occupier of every such house, out-house or land shall be deemed guilty of a Misdemeanor, and may be prosecuted and convicted accordingly, unless he shall prove that such Arms, Weapons or Gunpowder were so secreted or concealed without his knowledge or consent.

Provided always, and be it Enacted, That nothing in this Act contained shall affect any person serving in Her Majesty's Regular or Militia Forces, or any Privy Councillor, or Member of Parliament or Peace Officer, in respect to any Arms that they may have in their custody.

And be it Enacted, That every member of any Yeomanry Corps shall be deemed to be a person entitled to keep Arms within the meaning of this Act, but all Arms kept by him shall be registered, pursuant to the aforesaid provisions, and such registry and license shall specify and distinguish which of the Arms mentioned therein belong to Her Majesty, and are entrusted to such person as a member of said Corps, and he shall be liable to all the penalties and provisions of this Act in respect of any Arms found in his possession not mentioned in such license.

AND whereas it is necessary to provide against the making of pikes and such like offensive weapons; BE it therefore Enacted, by the authority aforesaid, That no person or persons whatsoever, after the passing of this Act, shall exercise the trade of a blacksmith, who shall not have previously registered his name, and the place where his forge is situated, at some sessions of the peace for the district in which such forge is used, and shall also have obtained a license from the Justices

10.
Penalty on
secreted or
concealing
Arms, &c.
from search.

11.
Not to extend
to Regular or
Militia Forces,
&c.

12.
Members of
Yeomanry
Corps to re-
gister their
Arms.

13.
Blacksmiths
to enter their
Names and
Forges, and
obtain Li-
censes at
Sessions;

and Registry
and License to
be made, kept
and granted,
as for Arms.

at such sessions, authorizing him to use and follow the trade of a blacksmith; which said registry and license is to be made, kept, and granted, in manner and form as the registry of Arms and license for using Arms hereinbefore mentioned.

14.
Justices at
Sessions may
withdraw
Licenses from
Blacksmiths,
if they make
Pikes or Pike
Heads after
obtaining
Licenses.

And be it Enacted, That it shall and may be lawful for the Justices 5
of the Peace, or the majority of them, at any sessions of the peace,
to withdraw such license from any blacksmith, if it shall be satis-
factorily proved on oath to them that such blacksmith hath made, or
knowingly suffered to be made in his forge any pike or pike head
after he shall have so obtained a license, and registered his forge as 10
aforesaid; and if any blacksmith shall use any forge without such
registry thereof and license as aforesaid, he shall for such offence and
offences incur and be liable to the penalties hereinbefore mentioned,
that persons having in their custody unregistered Arms are by this
Act subject to. 15

15.
Justices may
enter Houses
on suspicion
of having such
Pikes, &c.
and Penalty
thereon.

And be it Enacted, That it shall and may be lawful for any person
duly authorized by warrant under the hands and seals of Two
Justices, which warrant shall not be granted except upon the informa-
tion upon oath of one or more credible witness or witnesses, that 20
such weapons, to the best of his or their knowledge or belief, are
in any house or place, to search for pikes, pike heads, daggers or
dirks, in any such house or place; and if any such shall be found, it
shall and may be lawful for the person so authorized to seize and carry
away the same to the use of Her Majesty; and the person or persons
in whose possession, custody or keeping such weapons shall be found, 25
upon any search authorized to be made by this Act, being thereof
convicted by due course of law, shall for the first offence be deemed
guilty of a Misdemeanor, and shall be imprisoned for any time not
exceeding Twelve calendar Months, and for the second and every
other offence shall be adjudged a Felon, and be transported for Seven 30
Years, or imprisoned for any period not exceeding Two Years, unless
such person or persons shall prove to the satisfaction of the Court
before which he, she or they shall be tried for the said offence that
such weapon as aforesaid was in his, her or their custody or keeping
without his, her or their knowledge, privity or consent. 35

16.
Two Justices
having sus-
picion that
Arms are un-
lawfully in
possession of
any Person,
they may re-
port to the
Lord Lieuten-
ant, who by
Warrant may

And be it Enacted, That whenever any Two Justices of the Peace
in any county, county of a city or town in Ireland shall have any
reasonable grounds of suspicion that any person or persons within
such county, or county of a city or town, is or are unlawfully in
possession of Arms, or that any pikes, pike heads, daggers or dirks 40
are in any house or place within such county, county of a city or
town, such Justices of the Peace shall forthwith transmit to the Lord
Lieutenant,

Lieutenant, or other Chief Governor or Governors of Ireland for the time being, or his or their Chief Secretary, a report signed by such Two Justices of such suspicion, with the grounds and reasons of such suspicion, and upon the receipt of such report of such Two Justices, it shall and may be lawful for such Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, or his or their Chief Secretary for the time being, by warrant under his or their hand or hands, to authorize and require such Justices or any other Justice to search or cause search to be made in all houses and places within and throughout such county, county of a city or town, or within any parish, barony or half barony within such county, county of a city or town, or such part thereof respectively as shall be specified in such warrant, for any arms, pikes, pike heads, daggers or dirks, kept contrary to the provisions of this Act, and to seize and carry away the same.

order search to be made for them.

And be it Enacted, That from and after the commencement of this Act it shall not be lawful for any person to import or bring into Ireland any cannon, mortar, ordnance, blunderbuss, gun, pistol or other arms, or any lock, stock, barrel or other part of any gun, pistol or other arms, or any sword, sword blade, bayonet, pike, pike head, spear, spear head, weapon of war, or any part of any such weapon or any instrument serving the purposes of any such weapon, or any cannon balls, musket balls or pistol balls, or any gunpowder, brimstone, saltpetre or other material or ingredient used in the making of gunpowder, without having first obtained a license for that purpose, pursuant to the directions of this Act, under the hand of the Lord Lieutenant or other Chief Governor or Governors of Ireland, or his or their Chief Secretary, or, in his absence, of his Under Secretary for the time being, which license shall specify the number and particular kind of arms, ordnance, guns, pistols or other arms, or of locks, stocks, barrels or other parts thereof, or balls, swords, sword blades, bayonets, pikes, spears, spear heads, weapons of war, or parts of any such weapons or instruments serving the purposes of such weapons, and the quantity of gunpowder, brimstone, saltpetre, or other material for making gunpowder, thereby licensed to be imported or brought.

17.
No Ordnance, Arms, Gunpowder, &c. shall be imported into Ireland without License from the Lord Lieutenant.

Provided always, and be it Enacted, That it shall be lawful for any subject of Her Majesty coming into Ireland to land such Arms as such subject shall have actually carried for personal defence, and as are usually carried for that purpose, and no other, upon registering such Arms, and the name and usual place of abode of such person, with the chief officer of the port where such person shall land, and obtaining from such officer a license for landing the same, which license shall be granted without any fee or reward.

18.
Persons may land Arms for personal defence, on registering the same.

19.
Arms, &c.
imported
without Li-
cense, to be
forfeited, as
also the im-
porting
Vessels.

Penalty on
Importer and
on Master of
Vessel, 50 l.

Offenders
may be ar-
rested, and
convicted be-
fore Justice
of Peace.

20.
No Person in
Ireland shall
manufacture
Gunpowder,
or keep
Gunpowder,
Cannon, or
Ordnance,
without an
annual Li-
cense of Lord
Lieutenant,
&c.

And be it Enacted, That if any person shall, contrary to the provisions of this Act, import or bring any cannon, mortar, ordnance, gun, blunderbuss, pistol or other arms, or any stock, lock, barrel or other part of any gun, pistol, blunderbuss or other arms, or any balls, sword, sword blade, bayonet, pike, pike head, spear, spear head, 5
weapon of war, or instrument serving the purposes of any such weapon, or any accoutrements, gunpowder or ammunition, brimstone or saltpetre, or other material for making gunpowder, without such license for the importation thereof as aforesaid, or if any ship, vessel or boat shall be found in any port, harbour or creek in Ireland; having 10
on board any such article, for the importation or bringing of which such license shall not have been obtained, all such articles, and also such ship, vessel or boat, with all her furniture and apparel, shall be forfeited to Her Majesty, and shall and may be seized by any Justice of the Peace or peace officer, or by any officer of Her Majesty's Excise 15
or Customs; and all such articles not licensed to be imported as aforesaid shall, when so seized, be deposited in such place or places as shall be appointed for the purpose by the Lord Lieutenant or other Chief Governor or Governors of Ireland; and every importer or bringer thereof, whether owner thereof or not, shall for every such 20
importation or bringing forfeit the sum of *Fifty Pounds*, and the master or person commanding the ship or other vessel in which any such unlicensed article shall be imported or brought or shall be found shall forfeit the sum of *Fifty Pounds*; and any person so offending may be 25
arrested under the warrant of any Justice of the Peace, and convicted by such or any other Justice of the Peace of such offence; and in default of payment of such penalty may be committed by such Justice to the common gaol of the county or place in which such offence shall be committed, there to remain and be kept to hard labour for any time not exceeding *Three* calendar Months, or until such penalty 30
shall be paid.

And be it Enacted, That from and after the commencement of this Act no person shall make or manufacture any gunpowder in Ireland, nor shall keep any gunpowder, or any cannon or other ordnance, unless such person shall obtain a license for such purposes respectively under 35
the hand of the Lord Lieutenant or other Chief Governor or Governors of Ireland, or his or their Chief Secretary, or, in his absence, of the Under Secretary, for the time being; and every such license shall be in force for One Year from the granting thereof, and no longer; and the place where such gunpowder is to be made or manufactured, and 40
every store or place belonging to such manufacturer or other person in which any gunpowder, cannon or other ordnance is to be kept, shall be set forth and described in such license, together with the name of the person superintending the work at the mills of any such maker or manufacturer of gunpowder; and if such maker or manufacturer of
gunpowder

gunpowder shall have any office or place of delivery, separate from such mills, the name of the person to whom the gunpowder shall be consigned at such office, and the place where such office is situated, shall also be set forth and described in such license; and if any person
 5 shall, after the commencement of this Act, make or manufacture any gunpowder in Ireland, without having obtained such license, as is required by this Act for that purpose, or if any person not duly authorized to manufacture or to keep or to sell or deal in gunpowder shall keep in his or their custody any greater quantity of gunpowder than
 10 Two Pounds weight, or if any person not licensed to keep cannon or other ordnance shall keep any such cannon or ordnance in his or her custody, every such person shall for every such offence forfeit the sum of *Fifty Pounds*; and all gunpowder, and all materials for making the same, and all cannon or other ordnance found in the possession of
 15 or in any house or other place belonging to such offender, shall be forfeited; and it shall and may be lawful for any Justice of the Peace to seize, or by warrant to cause to be seized, any gunpowder (exceeding the quantity of Two Pounds weight), or any cannon or ordnance, in the custody or possession of any person in Ireland, unless
 20 a license for manufacturing or keeping or dealing in or selling the same respectively, duly granted and in force, shall, upon demand, be produced by the person in whose custody or possession such gunpowder, cannon or ordnance shall be and shall be so seized.

Penalty 50
and forfeiture
of Gunpow-
der, &c.

And be it Enacted, That from and after the commencement of
 25 this Act no person, not being duly licensed to manufacture gunpowder as aforesaid, shall deal in or sell gunpowder by retail or otherwise, in Ireland, unless he shall have obtained a license for that purpose, under the direction of this Act, from the Lord Lieutenant or other Chief Governor or Governors of Ireland, or his or their Chief
 30 Secretary, or, in his absence, the Under Secretary, for the time being; and such license shall be in force for One Year from the granting thereof, and no longer; and any person who shall deal in or sell gunpowder, by retail or otherwise, without having obtained such license as is required by this Act, shall forfeit for every time such person shall
 35 sell any gunpowder the sum of *Fifty Pounds*; and all gunpowder, and every cask or vessel in which the same shall be contained, found in the possession of such person, shall be forfeited and seized by any Justice of the Peace, or any person authorized thereto by warrant from any such Justice.

21.
No Person
not licensed
as a Manu-
facturer, shall
sell Gunpow-
der without
an annual
License for
that purpose.

Penalty 50 l.,
and forfeiture
of Gunpow-
der, &c.

40 And be it Enacted, That whenever any maker of or dealer in gunpowder shall sell or dispose of any quantity of gunpowder to any person licensed to deal in or sell or to keep gunpowder, the person so selling or disposing of gunpowder, or his or her known clerk or manager, shall indorse on the license of the person to whom the
 536. B same,

22.
Maker of or
Dealer in
Gunpowder,
selling to a
licensed
Dealer, shall
indorse the
quantity on
the Buyer's
License.

Penalty on
selling more
than Two
Pounds
weight to an
unlicensed
Person, 20l.

same shall be sold or disposed of the quantity sold or disposed of, and the time when, and shall sign his name thereto, or shall for every neglect therein forfeit the sum of *Twenty Pounds*; and if any person shall sell or deliver any greater quantity of gunpowder than Two Pounds weight to any person not producing a license duly granted for the dealing in or selling gunpowder, or for the keeping of a greater quantity of gunpowder than Two Pounds weight, every person so offending shall for every such offence forfeit *Twenty Pounds*.

23.
License for
removing
Gunpowder
bought by
licensed
Dealer.

And be it Enacted, That it shall be lawful for the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland, or, in his absence, for his Under Secretary, upon the production of any license for dealing in and selling gunpowder so indorsed, to grant a license for removing and conveying the quantity of gunpowder mentioned in such indorsement from the person so selling the same to the person so licensed.

24.
Penalty for
selling more
than Two
Pounds
within Two
Months to an
unlicensed
Person.

And be it Enacted, That if any person shall, within any period of *Two* calendar Months sell or deliver to any one and the same person not duly licensed to deal in or sell or to keep gunpowder, a greater quantity thereof than Two Pounds weight, every person so offending shall for each such offence forfeit the sum of *Twenty Pounds*.

25.
Arms, Gun-
powder, &c.
shall not be
removed
without
License.

And be it Enacted, That it shall not be lawful for any person to remove or cause to be removed from any part of Ireland, either by inland carriage or coastways, any cannon, mortar, ordnance, gun, pistol or other arms, or any lock, stock, barrel, or other part of any gun, pistol, or other arms, or any balls or bullets, or any gunpowder exceeding the weight of Two Pounds, or any brimstone or saltpetre, without a license for removing and conveying the same, granted by the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland, or, in his absence, by his Under Secretary; and it shall and may be lawful for any Justice of the Peace, or peace officer or any officer of the Revenue of Customs or Excise, upon information on oath to search for and seize all such cannon, mortar, ordnance, gun, pistol or other arms, locks, stocks, barrels or other parts of arms, balls, bullets, gunpowder or other articles hereinbefore mentioned, which shall be in progress of removal or shall be removed without such license, or without producing such license on demand of any Justice of the Peace or of any officer of Excise or Customs, and the same shall be forfeited to Her Majesty, together with the cart, car or other vehicle on which the same shall be put for conveyance, and every horse or other beast employed for drawing or carrying the same, and the ship, boat or other vessel conveying the same; and every person who caused the same to be removed shall forfeit the sum of *One hundred Pounds*.

Seizure of
Arms, &c.
illegally
removing.

And

And be it Enacted, That it shall not be lawful for any person, not by law authorized to keep and carry Arms, to keep any quantity of gunpowder whatever, except for the purpose of mining or blasting or for sale, whether such person shall or shall not have any license relating to gunpowder; and that any person herein offending shall be dealt with as if he had not any license.

26.
No Gunpowder to be kept by Persons not authorized to carry Arms.

Provided always, and be it Enacted, That it shall and may be lawful for any maker of and dealer in Arms, being licensed as hereinafter mentioned, to send Arms, either uncovered or in packages conspicuously marked with the word "Arms," without obtaining a license for so removing the same.

27.
Makers of Arms may send out Arms without License for removal.

And be it Enacted, That every person licensed to deal in or sell gunpowder shall, within Forty-eight hours after receiving any gunpowder by virtue of any license for the removal thereof, give notice of the arrival thereof to the next Justice of the Peace or other Magistrate; and thereupon it shall be lawful for such Justice or Magistrate to enter into the house or store of such person, and to view and examine such gunpowder, and the license for the removal of such gunpowder, and the license of such dealer, with the indorsement made thereon by the person who sold such gunpowder; and such person shall declare and show to such Justice or Magistrate, if required, all the stock of gunpowder in his or her possession; and if any such person shall not give such notice, or shall not permit such Justice or Magistrate to view or examine such licenses respectively, or such gunpowder, or shall not declare and show to such Justice or Magistrate all his or her stock of gunpowder, every such person for each such offence shall forfeit the sum of *Twenty Pounds*; and if any gunpowder not so declared or shown shall be found in the possession of such person, the same shall be forfeited, and shall be seized to the use of Her Majesty by or under the order of such Justice or Magistrate.

28.
Dealers shall give Notice of receiving Gunpowder to Magistrate, who shall view the same and the Indorsement on the License, &c.

And be it Enacted, That if any license to deal in or sell or to keep gunpowder shall be made use of for procuring gunpowder for the use of any other person than the person named in such license, or if any gunpowder bought in the name of any person so licensed shall, with the knowledge of such person, be carried, brought or delivered to any other than the person so licensed, the person so licensed shall forfeit the sum of *Fifty Pounds*, and the license before granted to such person shall be void.

29.
Penalty on licensed Persons procuring Gunpowder for unlicensed Persons.

And be it Enacted, That every maker or manufacturer of gunpowder, and every person dealing as a factor or agent in selling the same in Ireland, shall, within *Thirty Days* after the commencement of this Act, return an account to the Chief Secretary of the Lord

30.
Gunpowder Makers, within Thirty Days after commencement of Act, and afterwards

monthly, shall return Account of their Stock, &c. to Chief Secretary; and keep Books with Accounts of Sales, &c. to be inspected and Stock examined under orders of Chief Secretary.

Lieutenant or other Chief Governor or Governors of Ireland for the time being, or, in his absence, to the Under Secretary, of all the stock of gunpowder in his or her possession, describing the place or places where the same shall be kept, and the packages containing the same, and shall verify such return by affidavit at the foot of such return, to be sworn before any Magistrate, and shall provide a book in which such quantity shall be entered; and shall from time to time in the first week of every calendar month, and also upon the completing the manufacture of any quantity or quantities of gunpowder, or receiving the same to be sold (as the case may be), make a like return, verified as aforesaid, and like entry; and every such maker or manufacturer shall also enter separately in such book an account of every parcel of gunpowder sold or disposed of, with the time when, and to whom; and it shall be lawful for any person authorized by the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland, or, in his absence, by his Under Secretary, at all reasonable times to have access to such book, and to examine the stock of such maker or seller of gunpowder, or such factor or agent, and compare and balance the same with the account kept in such book; and if it shall appear that any fraud had been committed, or that any gunpowder had been sold, sent or disposed of contrary to the provisions of this Act, the person licensed shall forfeit Fifty Pounds, and the license to such person shall become void, and such person shall be disabled in future to make or manufacture or sell gunpowder.

31.
Penalty for not making Returns, &c. 20l.

And be it Enacted, That if any maker or manufacturer of gunpowder, or factor or agent selling gunpowder, shall not make such returns as aforesaid, verified as aforesaid, or shall not keep such book, or shall omit to make therein any entry required by this Act, or shall refuse to permit any person thereto authorized to inspect the same, or to examine the stock of gunpowder of such maker, manufacturer, factor or agent, every such offender shall for every such offence respectively forfeit the sum of *Twenty Pounds*.

32.
Licensed Manufacturers may send Gunpowder in the day-time to their Offices, or the Queen's Stores, with a Manifest only.

Provided always, and be it Enacted, That every person duly licensed to manufacture gunpowder may send, at any time between sunrise and sunset, any quantity thereof to his office or place of delivery mentioned in the license granted to him, or to Her Majesty's stores, and not elsewhere, without obtaining a license for the carriage or removal of the same; provided that, with every quantity of gunpowder so sent, the maker or his superintendent shall send a manifest, expressing the quantity sent, and whether in barrels, half barrels or quarter barrels, and the places from which and to which it is sent, which manifest shall be dated and signed by the maker of such gunpowder, or his superintendent.

And

And be it Enacted, That if any greater quantity of gunpowder than what is expressed in such manifest shall be so sent, or if the gunpowder therein mentioned shall be sent to any other place than to such office or place of delivery, or to Her Majesty's stores, the same
 5 shall be forfeited to Her Majesty, and the person sending the same shall forfeit *Fifty Pounds*.

33.
 Penalty on
 fraud by
 Manifest,
 50*l*. &c.

And be it Enacted, That all gunpowder exceeding Five Pounds weight, which shall be removed from any part of Ireland, to any other part of the same, shall be made up in casks with the word
 10 "Gunpowder" marked thereon in large letters, upon pain of forfeiting the same to Her Majesty; and that it shall be lawful for any person to seize and carry to Her Majesty's stores any quantity of gunpowder exceeding Five Pounds weight, and not so made up and marked; and the person who shall have caused such gunpowder to be carried with-
 15 out being so made up or marked, shall forfeit for each such offence the sum of *Fifty Pounds*.

34.
 Gunpowder
 exceeding
 Five Pounds
 shall be re-
 moved in
 Casks, &c.
 Penalty 50*l*.

And be it Enacted, That no person shall make, amend, repair or keep for or expose to sale in Ireland, by way of auction or otherwise, any cannon or other ordnance, or any gun, musket, pistol or other
 20 arms, or any lock, barrel, stock or other part of any gun, pistol or arms, or any bayonet, sword, sword blade, spear, spear head, pike, pike head, or instrument serving for a pike or pike head, or other military weapon, without a license from the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland,
 25 or, in his absence, his Under Secretary, which license shall be granted to any person qualified to carry on such manufacture or trade, or to any licensed auctioneer, if it shall seem fit to such Secretary or Under Secretary; and if any person shall make or construct, mend, alter or repair, or keep for or expose to sale any cannon or other ordnance, or
 30 any gun, musket, pistol or other arms, or any lock, barrel, stock or other part of any gun, pistol or other arms, or any bayonet, sword, sword blade or other military weapon, without having obtained such license, every such article found with such person shall be forfeited, and may be seized by any Justice of the Peace or Magistrate, or officer
 35 of Customs or Excise, or by any person authorized thereto by the warrant of any Justice of the Peace or Magistrate, and every such offender shall forfeit a sum of *Fifty Pounds*, or, in default of payment, be imprisoned for any period not exceeding *Four* calendar Months; and such license shall be of force for one year, and no longer, from the time of
 40 granting thereof.

35.
 Yearly
 Licenses to
 be had for
 making or re-
 pairing Arms.

Penalty, for-
 feiture of
 Arms and
 100*l*.

And be it Enacted, That any smith or other person who shall make or assist in making any pike, pike-head, dirk, dagger, spear or instrument serving for pikes or spears, without such license, shall, being thereof lawfully convicted, be adjudged a felon, and be trans-
 536.

36.
 Penalty on
 Persons
 making or
 assisting in
 making Pikes,
 &c. without
 License.

ported for *Seven Years*: Provided always, That nothing herein contained shall extend or be construed to extend to any persons having or making such weapons as aforesaid, in the service or for the use of Her Majesty, Her heirs and successors.

37.
Monthly
Account of
Arms sold,
&c. shall be
kept and
returned to
Chief Secretary.

Books may
be examined
on behalf of
Chief Secretary.
Penalty on
default, &c.
20l.

And be it Enacted, That every person who shall make, repair or 5
sell any cannon, ordnance, gun, pistol or other fire-arms, or any locks,
barrel, stock or other part of any gun, pistol or other fire-arms, or any
sword, bayonet, pike, pike-head, spear, spear-head or instrument
serving for a pike or pike-head, or any other military weapon, shall
keep a book, in which he or she shall enter or cause to be entered a 10
monthly account of all such articles made, sold or repaired by such
person, and to or for whom the same were sold or repaired, and the
respective times when, and shall monthly return to the Chief Secretary
of the Lord Lieutenant or other Chief Governor or Governors of
Ireland; or in his absence to his under Secretary, a copy of such 15
account, verified on oath before any Magistrate; and it shall be lawful
for any person empowered for that purpose by the Chief Secretary, or
in his absence by his Under Secretary, at all reasonable times, on
demand, to have access to such book to examine the same; and if any
person making, repairing or selling any such article shall not keep 20
such book, or shall not truly enter therein such account as aforesaid,
or shall omit to make any such return as aforesaid, verified as aforesaid,
or shall not, after demand, produce such book to such person as
shall be authorized as aforesaid, or shall not permit such person to
examine the same, every person offending shall for every such offence 25
forfeit Twenty Pounds.

38.
Licenses
under this
or any former
Act may be
suspended on
Notice from
Chief Secretary to Party
licensed.

Affidavit of
such service.

Provided always, and be it Enacted, That it shall and may be
lawful for the Chief Secretary of the Lord Lieutenant or other Chief
Governor or Governors of Ireland, or, in his absence, for his Under 30
Secretary, for the time being, by an order in writing under his hand,
from time to time, whenever and so often as shall seem expedient,
and for such period of time as shall be expressed in such order, to
recall, annul, suspend or prohibit the acting under the authority of
any license to deal in and sell gunpowder, or to make, repair, or sell
arms, granted under this Act or under any Act heretofore in force in 35
that behalf; and the party to whom such order shall relate shall be
served with notice of the same by the delivery of a copy thereof to
such party in person, or by a copy thereof being left at the shop or
warehouse of such party, and the said order being shown to some
person above the age of Twelve Years of or belonging to such party; 40
and such service shall, by the person making the same, be verified by
affidavit of such person in writing before any Justice of the Peace or
Magistrate having jurisdiction where the party so served shall reside;
and such Justice of the Peace is hereby authorized, empowered, and
required

required to administer an oath for the purpose of taking the said affidavit; and such affidavit, when sworn, shall be transmitted to the Chief Secretary, or, in his absence, to the Under Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, together with the original order, the copy of which shall be so delivered or left; and any person so licensed and served with such order who shall, at any time whilst such order shall be in force, deal in or sell gunpowder, or make, repair, or sell arms, shall be considered as dealing in or manufacturing the same without license, and all gunpowder, and arms, and parts of arms in the possession of such person shall and may be seized to the use of Her Majesty by or under the warrant of any Justice of the Peace, or by any officer of Her Majesty's Revenue of Customs or Excise.

Penalty on selling Gunpowder during suspension of License.

And be it Enacted, That it shall and may be lawful to and for any Justice of the Peace or Magistrate to enter and search, or to grant a warrant to any person or persons to be by him named to enter and search, any house, place, ship, boat, or vessel where or in which such Justice or Magistrate shall, from information on oath, have reasonable grounds to suspect any arms, ammunition, or gunpowder to be deposited by or for the use of any person importing, making, repairing, or dealing in the same contrary to this Act, and to seize and carry away the same, or any gunpowder kept by any person contrary to this Act.

39.
Justice of Peace may search for Arms and Gunpowder kept for Sale, &c.

And be it Enacted, That whenever any Magistrate or other person shall seize or carry away any arms, ammunition, gunpowder or weapons under the authority of this Act, such Magistrate or other person shall with all convenient dispatch transmit the same to one of Her Majesty's storehouses, or to the officer commanding the nearest detachment of Her Majesty's troops, by him to be transmitted as aforesaid; and that in every case such Magistrate or other person as aforesaid shall, immediately after he or they shall have seized or carried away any arms, ammunition, gunpowder, or weapons as aforesaid, transmit to the Lord Lieutenant or other Chief Governor or Governors of Ireland, or to his or their Chief Secretary, a written account of the number and nature and amount thereof, and of the place where, and the person from whom the same were respectively seized.

40.
How Arms seized shall be disposed of.

And be it Enacted, That all the pecuniary penalties in this Act specified shall be sued for before any Justice of the Peace of the County in which the offence shall have been committed, and shall be raised and levied by sale of the goods of the person offending, by warrant under the hand and seal of any Justice of the Peace in and for the County in which such offence shall be committed; and the penalties so to be levied shall be by such Justices or Justice handed

41.
Manner of raising, levying and disposing of Penalties.

over to the Treasurer of the County in which such sums are levied, to be applied to such purposes as the Grand Jury at any ensuing Assizes shall think proper to present.

42.
Lord Lieu-
tenant may
remit Penal-
ties, &c.

Provided always, and be it Enacted, That it shall and may be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland, at his and their discretion, to remit or mitigate any penalty or forfeiture sued for under this Act, and to order the restoration of any ship, vessel, or boat, or of any arms, gunpowder or ammunition, or other article, seized under the authority of this Act.

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43.
Commis-
sioners, &c.
may restore
Ships, &c.
and remit
Penalties, &c.
under certain
circum-
stances.

Provided always, and be it Enacted, That in any case in which it shall be made appear to the satisfaction of the Commissioner and Assistant Commissioners of Customs acting in Dublin, or the collector of the Customs at that port, or the collector of the Customs at any other port in Ireland, that any seizure has been made of any ship, vessel or boat, or of any arms, gunpowder, ammunition or other article therein, or that any penalty or forfeiture has been incurred by the owners or by the master or commander of any ship, vessel or boat, for any offence against this Act, contrary to the intentions, and without the privity, consent or concurrence of the person or persons liable in any manner to suffer by any such seizure, penalty or forfeiture, it shall and may be lawful for such Commissioner and Assistant Commissioners, and for any such collector of the Customs as aforesaid at the port in which such circumstances shall take place, to order any ships, vessels or boats to be restored in any such manner and on such terms and conditions as such Commissioner and Assistant Commissioners of Customs, or as such collector of Customs, shall think fit to direct, and also to remit or mitigate any such penalty or forfeiture, as they shall see reason to acquit any party of blame in respect of such offence, or more or less to attribute the commission of such offence to neglect of duty in any such party; and every forfeiture and every penalty or part thereof so remitted shall be null and void; and no suit or action shall be brought or maintained by any person whatever on account of any such seizure or detention, or of the imposing of any such forfeiture or penalty.

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44.
Justices to
return
Names, &c.
of Persons
employed to
search to the
General
Sessions.

And be it Enacted, That whenever any search shall be made under this Act, by any person authorized by any warrant of any Justice of Peace under the authority of this Act, the Justices of Peace authorizing and directing any person or persons to make such search, shall make a true and faithful return of the name and names of all and every person or persons so authorized to make such search, and their quality and descriptions, to the General Session of the Peace which shall be held next after such search.

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And

and where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the summons, conviction, warrant of distress, or any other proceeding relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers ab initio on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action on the case; but no plaintiff or plaintiffs shall recover in any action for such irregularity as aforesaid, if tender of sufficient amends hath been made by or on the behalf of the party distraining before such action brought.

Tender of
Amends.

49.
Appeal to
Quarter Ses-
sions.

Recognizance.

Determina-
tion to be
final.

Costs.

Appellant not
paying sum
adjudged

Provided always, and be it Enacted, That if any person or persons convicted of any offence punishable by this Act, shall think him, her or themselves aggrieved by the judgment of the Magistrate or Magistrates, Justice or Justices, before whom he, she or they shall have been convicted, it shall be lawful for such person or persons from time to time to appeal to the Justices at the next General or General Quarter Sessions of the Peace which shall be held for the city, county, division, liberty, town or place where such judgment shall have been given, and that the execution of such judgment shall in such case be suspended, the person or persons so convicted entering into a recognizance within *Twenty-four* Hours of the time of such conviction, with Two sufficient sureties, in double the sum which such person or persons shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the Justices at their said next General or General Quarter Sessions; which recognizance the Magistrate or Magistrates, Justice or Justices, before whom such conviction shall be had, is and are hereby empowered and required to take; and the Justices in the said General or General Quarter Sessions are hereby authorized and required to hear and finally determine the matter of every such appeal, and to award such costs as to them shall appear just and reasonable to be paid by either party; and if, upon hearing the said appeal, the judgment of the Magistrate or Magistrates, Justice or Justices, before whom the appellant or appellants shall have been convicted, shall be confirmed, such appellant or appellants shall forthwith pay down the sum he, she or they shall have been adjudged to have forfeited, together with such costs as the said Justices in their said General or General Quarter Sessions shall award to be paid to the prosecutor or informer for defraying the expenses sustained by reason of any such appeal; and in default of the appellant's paying the same, any Two Justices, or any one Magistrate or Justice of the Peace having jurisdiction in the place

place into which any such appellant or appellants shall escape, or where he, she or they shall reside, shall and may, by warrant under their hands and seals, or his hand and seal, commit any such appellant or appellants to the common gaol of the city,
 5 county, division or place where he, she or they shall be apprehended, until he, she or they shall make payment of such penalty, and of the costs and charges which shall be adjudged on the conviction; but if the appellant or appellants in any such appeal shall make good his,
 10 her or their appeal, and be discharged of the said conviction, reasonable costs shall be awarded to the appellant or appellants against such informer or informers who would (in case of such conviction) have been entitled to a moiety of the penalty to have been recovered as aforesaid, and which costs shall and may be recovered by the appellant or appellants against any such informer or informers in like manner
 15 as costs given at any General or General Quarter Sessions are recoverable: Provided always, That no person shall be detained in prison for any such offence for any greater length of time than *Three* calendar Months.

against him,
to be committed.

Costs to Appellant making good his Appeal.

And be it Enacted, That all the provisions of an Act passed in the
 20 fifth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the more effectual Recovery of Penalties before Justices and Magistrates on conviction of Offenders, and for facilitating the Execution of Warrants by Constables," shall apply to and be put in force for the recovery of the pecuniary penalties specified in this Act,
 25 so far as the same may be applicable thereto, and not inconsistent with anything hereinbefore contained.

50.
5 Geo. 4,
c. 18, to be applied in Recovery of Penalties under this Act.

And be it Enacted, That this Act shall commence and take effect from the *last day of this Present Session of Parliament*, and shall be and remain in force for the term of _____ years from and after
 30 the passing thereof, and from thence until the End of the then next Session of Parliament.

51.
Commencement and continuance of Act.

And be it Enacted, That this Act may be amended or repealed by any Act or Acts to be passed in this present Session of Parliament.

52.
Act may be amended.

Arms (Ireland.)

A

B I L L

To prevent improper Persons from having Arms in Ireland, and to regulate the Importation of Arms, Gunpowder and Ammunition into Ireland, and the making, removing, selling and keeping of Arms, Gunpowder and Ammunition there.

(Prepared and brought in by
Lord Viscount Morpeth and Lord John Russell.)

*Ordered, by The House of Commons, to be Printed,
25 June 1838.*

20 July 1838:—2 VICT.



(Ireland.)

A

B I L L

To amend and continue the several Acts relating to the Importation and keeping of Arms and Gunpowder in Ireland.

- W**H ~~HEREAS~~ an Act was passed in the forty-seventh year of the reign of his Majesty King GEORGE the Third, intituled, "An Act to prevent improper Persons from having Arms in Ireland," to continue in force for a limited period, which Act was by another Act, passed in the fiftieth year of his said Majesty's reign, continued and amended; and such Acts having been continued, were by another Act, passed in the tenth year of the reign of his Majesty King GEORGE the Fourth, amended and further continued until a time when the same expired :
- 5
- 10 And whereas by another Act, passed in the first and second years of his late Majesty's reign, the said recited Acts were revived and continued :
- And whereas by three other Acts, passed respectively in the second and third, and fourth and fifth, and sixth and seventh years of the reign of his late Majesty, such Acts have been further continued and will remain in force until the end of this present Session of Parliament ; and it is expedient that the said Acts should be further continued ;
- 15
- ~~BE~~ it therefore ~~Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Acts of the forty-seventh year of the reign of his Majesty King GEORGE the Third, as the said Act is amended by the said recited Act of the fiftieth year of the same reign, and by the said recited Act of the tenth year
- 20
- 613.
- Preamble :
47 Geo. 3.
Sess. 2, c. 54.
50 Geo. 3,
c. 109.
10 Geo. 4,
c. 47.
1 & 2 W. 4,
c. 47.
2 & 3 W. 4,
c. 70.
4 & 5 W. 4,
c. 53.
6 & 7 W. 4,
c. 39.
Four first
recited Acts
continued for
One Year.

of the reign of his late Majesty King GEORGE the Fourth, and as the said Acts were revived by the said recited Act of the first and second years of the reign of his late Majesty, shall be and the said Acts are hereby continued, and shall be and remain in force for the term of One Year from the passing of this Act, and thenceforth until the end 5 of the then next Session of Parliament.

2.
1 W. 4, c. 44,
continued for
One Year.

AND whereas an Act was passed in the first year of the reign of his late Majesty, intituled, " An Act to regulate for One Year the Importation of Arms, Gunpowder and Ammunition into Ireland, and the making, removing, selling and keeping of Arms, Gunpowder 10 and Ammunition in Ireland ;" and such Act having been continued from time to time will remain in force until the end of this present Session of Parliament ; and it is expedient that the said Act should be further continued ; BE it therefore Enacted, That the said recited Act of the first year of the reign of his late Majesty shall be and the 15 said Act is hereby continued, and shall be and remain in force for the term of One Year from the passing of this Act, and thenceforth until the end of the then next Session of Parliament.

Arms and Gunpowder.

(Ireland.)

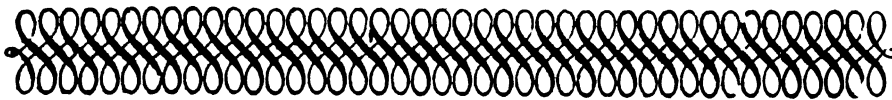
A

B I L L

To amend and continue the several Acts relating to the Importation and keeping of Arms and Gunpowder in Ireland.

(Prepared and brought in by
Lord Viscount Morpeth & Mr. More O'Ferrall.)

Ordered, by The House of Commons, to be Printed,
20 July 1838.



A

B I L L

For the better Encouragement of the Arts and
Manufactures, and securing to Individuals the
Benefit of their Inventions for a limited Time.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ it is expedient, for the greater encouragement of Preamble.
the Arts and Manufactures in these realms, that protection
should be afforded to the inventors of new and useful improvements, by
vesting the property thereof in them, and that the same should be still
5 further increased, and extended to all persons whatsoever who shall be
desirous of availing themselves of this Act :

And whereas an Act was made in the twenty-seventh year of the
reign of his late Majesty King GEORGE the Third, intituled, “ An
Act for the Encouragement of the Arts of designing and printing
10 Linens, Cottons, Calicoes and Muslins, by vesting the Properties
thereof in the Designers, Printers and Proprietors for a limited time ;”
which said Act was by another Act, made in the twenty-ninth year
of his said late Majesty’s reign, continued from the expiration
thereof until the first day of July one thousand seven hundred and
15 ninety-four ; and was afterwards by another Act, made in the thirty-
fourth year of the said reign, made perpetual, and the provisions thereof
extended ;

B~~E~~ it therefore **E**~~n~~~~a~~~~c~~~~t~~~~e~~~~d~~, by The QUEEN’s most Excellent
MAJESTY, by and with the Advice and Consent of the Lords Spiritual
and Temporal, and Commons, in this present Parliament assembled,
71. A and

1. 5
 Repeal of cer-
 tain Acts of 27,
 29 & 34 G. 3,
 relative to
 Linens, &c.

and by the Authority of the same, THAT the said recited Acts of the
 twenty-seventh, the twenty-ninth, and the thirty-fourth years of the
 reign of King GEORGE the Third, shall be and the same are hereby
 Repealed.
2. 5
 Property in
 new Design,
 secured to
 Inventor or
 Proprietor for
 Twelve calen-
 dar Months.

And be it Enacted, That any person who shall hereafter invent,
 design or contrive, or shall become the proprietor of any invention,
 design or contrivance, whereby, in the opinion of such inventor, de-
 signer, contriver or proprietor, some new and beneficial operation or
 result shall be obtained in any art, science, manufacture or calling
 whatsoever, may and shall hereafter have the sole right and property 10
 in every such new invention, design or contrivance for and during
 the term of *Twelve* calendar Months from the time of registering the
 same, in manner and under the regulations herein in that behalf
 mentioned.
3. 15
 Persons avail-
 ing themselves
 of this Act,
 to deposit a
 Fac-simile,
 Model or Spe-
 cimen of their
 Invention
 with Com-
 missioners.

And be it Enacted, That every inventor, designer, contriver or
 proprietor who shall be desirous of availing himself of the provisions
 of this Act, shall deposit, or cause to be deposited, in the custody of
 the Commissioners to be appointed under and by virtue of this Act, in
 the manner and under the regulations hereinafter set forth, or which
 shall be set forth, under and by virtue of the provisions herein contained, 20
 a full, true, correct and perfect fac-simile, model or specimen, print,
 drawing or design of his invention, design or contrivance, with the
 name and actual place of abode of such inventor, designer, contriver
 or proprietor attached thereto, in such manner as to the said Com-
 missioners shall seem expedient, and shall also pay the sums of money 25
 in the manner and at the times hereinafter in that behalf respectively
 provided.
4. 30
 Commission-
 ers to find
 some suitable
 place for ex-
 posing Models,
 &c. to public
 Inspection.

And be it Enacted, That the said Commissioners shall and they are
 hereby authorized and required to approve of and provide some fit and
 proper place for the reception of all such fac-similies, models or spe-
 cimens, prints, drawings or designs, as shall hereafter be deposited in
 their custody under the provisions of this Act, and shall cause the same
 to be preserved and exposed to public inspection in as perfect and
 commodious a manner, and under such rules, regulations, charges and
 expenses, as to the said Commissioners shall seem fitting and expedient, 35
 during the space of *Twelve* calendar Months from the time of the
 deposit thereof respectively.
5. 40
 Persons
 depositing
 Models, &c.
 to pay 10 l.

And be it Enacted, That every person who shall be desirous of avail-
 ing himself of the provisions of this Act shall, at the time of depositing
 such fac-simile, model or specimen, print, drawing or design as
 aforesaid, pay or cause to be paid to the said Commissioners, or on
 their account, the sum of *Ten* Pounds, and shall thereupon be entitled
 to receive from the said Commissioners a certificate of license for the
 same, to be sealed with the seal of the said Commissioners, certifying
 the

Entitled to a
 Certificate
 sealed by Com-
 missioners.

the date of such deposit, together with a general outline or description of the fac-simile, model or specimen to which the same shall relate.

- And be it Enacted, That if any person whatsoever shall at any time
- 5 during the continuance of the said term of *Twelve* calendar Months, bearing date from the day of the deposit of such fac-simile, model, specimen, print, drawing or design, either directly or indirectly make, vend or put in practice, or in anywise imitate, counterfeit or resemble the several inventions, designs or contrivances to which the same shall
- 10 respectively refer, or shall make or cause to be made any addition thereto or subtraction from the same, whereby to pretend himself the inventor, designer or contriver thereof, without the license or consent in writing of the said person or persons whose name or names shall appear on the said fac-simile, model or specimen relating thereto, and
- 15 deposited as aforesaid, and shall also appear in the said certificate of license, or of his or their assigns, or if any person shall upon such thing not having been purchased from the person or persons whose names shall appear on the said model or specimen and certificate of license relating thereto, or his or their assigns, or not having the license or
- 20 consent in writing of such person or persons, or his or their assigns, write, paint, print, mould, cast, carve, engrave, stamp or otherwise mark the word "Licensed," or "By the Queen's License," or any words of the like kind, meaning or import, or with a view of imitating or counterfeiting the stamp, mark or other device of the person or
- 25 persons so having obtained such certificate of license as aforesaid, or shall in any other manner imitate or counterfeit the stamp or mark, or other device, of such person or persons, he shall for every such offence be liable to a penalty of *Fifty* Pounds, to be recovered by action of debt, bill, plaint, process or information, in any of Her
- 30 Majesty's Courts of Record at Westminster, or in Ireland, or before any *Two* or more of Her Majesty's Justices of Peace, at their General or adjourned Quarter Sessions of the Peace assembled, or in the Court of Session in Scotland, *One-half* to Her Majesty, Her heirs and successors, and the other to any person who shall sue for the same: Pro-
- 35 vided always, That nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking the words "Licensed," or "By the Queen's License," upon any thing made for the sole vending of which a certificate of license before obtained shall have expired: And provided
- 40 always, That nothing herein contained shall be construed to exempt any person or persons who shall hereafter take advantage of the provisions of this Act from any liability to which he or they may subject himself or themselves in any action, suit or other proceeding to which they are now or may hereafter become subject, by reason of any infringement, or alleged infringement, of any invention or contrivance for

6.

Persons imitating subject-matter of License.

without consent of person having License,

or mark "Licensed" on same,

to be liable to a penalty of 50 l. for every offence.

Certificate not to exempt persons from liability for infringement of Patents.

Subject-matter of License not to be afterwards subject of Letters Patent; not to be capable of a second License.

which Her Majesty's Royal Letters Patent have been already or may hereafter be obtained : And provided also, That no invention, model or contrivance for which a certificate of license shall have been granted under the provisions of this Act, shall be capable of being made the subject of Letters Patent therefor at any time after the date of such certificate ; nor shall the same be capable of being made the subject of a second license therefor under the provisions of this Act. 5

7. Proviso that the persons who were protected by the Acts hereby repealed, shall still be entitled to the benefit of said Acts, if they think fit.

Provided always nevertheless, and be it Enacted, That every person who shall invent, design or print, or cause to be designed or printed, or become the proprietor of any original Pattern or Patterns for printing Linens, Cottons, Calicoes or Muslins, shall, notwithstanding any thing herein contained, have and continue to have the sole right and liberty of printing and re-printing the same for the term of *Three* Months, to commence from the day of the first publication thereof, which shall be truly printed with the name of the printer or proprietor at each end of every such piece of Linen, Cotton, Calico or Muslin, and in like manner as they were entitled if the said three several herein recited Acts of the Twenty-seventh, Twenty-ninth and Thirty-fourth years of the reign of King GEORGE the Third had not been repealed, and shall likewise be entitled to sue for and recover in such and the like manner as hereinbefore set forth such Penalty of *Fifty* Pounds against all persons whatsoever who shall, within the said period of *Three* Months, print or re-print, work or copy, or cause to be printed, re-printed worked or copied, such original Pattern or Patterns, or publish, sell or expose to sale, or in any other manner dispose of any Linen, Cotton, Calico or Muslin so printed (without the consent in writing of the proprietor or proprietors thereof first had and obtained), knowing the same to be so printed or re-printed, without the consent of the proprietor or proprietors of such Pattern. 10 15 20 25

8. Appointment of Board of Commissioners to carry this Act into execution.

Commissioners to be appointed during good behaviour.

And be it further Enacted, That, for the purpose of carrying this Act into execution, it shall be lawful for Her Majesty, Her heirs and successors, by Charter or Letters Patent, under the Great Seal of the United Kingdom of Great Britain and Ireland, to erect and establish a Board of Commissioners to carry this Act into execution; and by commission under the Great Seal to appoint *One* person to be the chief of such Commissioners, and *Two* other fit and proper persons to be other Commissioners of the said Board, and from time to time to supply any vacancy in the number of the Commissioners; and that until such vacancy shall be supplied, it shall be lawful for the surviving or remaining Commissioners to act as if no such vacancy had occurred; and that the said Commissioners shall hold their said offices during their good behaviour, and so long as they shall personally give their attendance upon their respective duties, and shall conduct themselves honestly 30 35 40

honestly and faithfully in the due execution of the duties of their said offices respectively.

And be it Enacted, That the said Commissioners shall be styled
 “ The Commissioners for Inventions ;” and the said Commissioners,
 5 or any *Two* of them, may sit from time to time, as they may deem expedient, as a Board of Commissioners for carrying this Act into execution ; and the said Commissioners acting as such Board shall be and are hereby empowered, by summons under their hands and seal, to require
 10 the attendance of all such persons as they may think fit to call before them upon any question or matter connected with or relating to the administration of the several powers, questions, matters and things over which they shall have any jurisdiction or control by virtue of this Act, and to examine all such persons upon oath, and to require and enforce the production upon oath of all deeds, models, drawings, designs, books, contracts, agreements, accounts and writing, or copies
 15 thereof respectively, in anywise relating to any such question, or matter or thing, or, in lieu of requiring such oath as aforesaid, the said Commissioners may, if they think fit, require any such person to make and subscribe a declaration of the truth of the matters respecting which he
 20 shall have been or shall be so examined.

9.
Style of Commissioners,

who may sit as a Board to carry this Act into execution, with power to summon

and examine Witnesses, and call for production of papers on Oath,

or to substitute a Declaration upon Oath.

And be it Enacted, That the said Commissioners shall cause to be made a seal of the said Board, and shall cause to be sealed or stamped therewith all rules, orders and regulations made by them in pursuance of this Act ; and all such rules, orders and regulations, or
 25 copies thereof, purporting to be sealed or stamped with the seal of the said Board, shall be received as evidence of the same respectively without any further proof thereof ; and no such rule, order or regulation or copy shall be valid, or have any force or effect, unless the same shall be so sealed or stamped as aforesaid.

10.
To have a common seal.

Rules sealed, to be received as Evidence.

And be it Enacted and the said Commissioners are hereby authorized and empowered from time to time to appoint such persons as they may think fit to be a secretary or secretaries, registrar or registrars, and all such clerks, messengers and other officers as they shall deem necessary, and from time to time to remove the same, or
 30 any of them, and to appoint others in their stead : Provided always, That the amount of the salaries of all officers to be from time to time appointed by the said Commissioners shall be regulated by the Commissioners of Her Majesty's Treasury, or any Three or more of them.

11.
Commissioners to appoint Officers.

Salaries to be regulated by Commissioners of Treasury.

And be it further Enacted, That every Commissioner to be appointed by virtue of this Act shall, before he shall be capable of acting in the execution of any of the powers and authorities given by this Act, take
 40

12.
Commissioners to take an Oath.

an Oath in the presence of the Lord Chancellor to the effect following;
(that is to say)

“ I, A. B., do swear, That I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as one of the Commissioners for Inventions, and that without favour or affection, prejudice or malice. 5

“ So help me GOD.”

And any Commissioner having once taken the said Oath shall not again be required to take the same so long as he shall continue in office.

13. .
Secretary of
Commissioners to
receive Fees,
and also all
other sums
payable under
this Act,

and to pay same into Bank of England once a week, to credit of Commissioners. Monies in Bank, subject to orders of Commissioners, or as directed by this Act.

And be it Enacted, That it shall be lawful for the Secretary of the said Commissioners for the time being, and he is hereby authorized and required to receive and take the several fees and sums herein set forth; and the sums to be so received by the said Secretary, and all other sums to be received by him under the provisions of this Act, shall 15 be by him paid *once* a week, or oftener, as the said Commissioners shall think fit to direct, into the Bank of England, to the credit of the said Commissioners for Inventions, to an account to be opened by them with the Governor and Company of the said Bank, to be intituled, “ The Commissioners for Inventions’ Account;” and all monies to be 20 paid in to the said account shall be subject to such regulations touching the payment in, investment, accounting for, and payment out, of the said monies as herein provided, or as the said Commissioners, or any *Two* or more of them, by an order to be signed by them, shall, for the purposes of this Act, direct and appoint. 25

14.
Salaries of
Officers under
this Act.

And be it Enacted, That from and after the commencement of this Act, there shall be paid and payable out of the monies and securities standing to the said account, to be intituled, "The Commissioners for Inventions' Account," the yearly sums following, as and for salaries to the Commissioners and other officers for the time being hereinafter named ; videlicet, to the Chief Commissioner of the said Board the sum of _____ to each of the other said Commissioners of the said Board _____ which said several sums shall be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the *Eleventh* day of *April*, the *Eleventh* day of *July*, the *Eleventh* day of *October*, and the *Eleventh* day of *January*, in every year, by equal portions ; the first payment thereof respectively to be made on the *Eleventh* day of *April* next after the *passing of this Act* ; and that if any person for the time being holding either of the said offices shall die, resign or be removed from the same, the executor or administrator of the person so dying, or the person so resigning or being removed, shall be entitled to receive such proportionable part of his salary as shall have accrued during the time

time that such person shall have executed his office since the last payment, and that the successor of any such person so dying, resigning or being removed as aforesaid, shall be entitled to receive such portion of his salary as shall be accruing or shall accrue from the day of such death, resignation or removal.

And be it Enacted, That if any Commissioner, Secretary, Assistant Secretary, Registrar, Deputy Registrar, Clerk, Messenger, or any other officer or person whatsoever, shall, for any thing done, or pretended to be done, under this Act, or under colour of doing any thing under this Act, fraudulently and wilfully demand or take, or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named or in trust for him, or for any other person by him named, any fee, emolument, gratuity, sum of money, or any thing of value whatsoever, other than is allowed by this Act, or any rule, order or regulation made, or to be made, in pursuance of the provisions thereof or shall directly or indirectly be engaged or employed, and either as principal or agent in the procuring, maintaining or opposing the grant of any license for any invention, or in any matter or thing connected therewith, save in the performance of the duties of his office as such Commissioner, Secretary or Assistant Secretary, Registrar, Deputy Registrar, Clerk, Messenger or other officer, such person, when duly convicted thereof, shall forfeit and pay the sum of *Five hundred* Pounds, and be rendered incapable, and is hereby rendered incapable, of holding any office or place whatsoever under Her Majesty, Her heirs or successors.

15.
Penalty on
Officers taking
Fees.

And be it Enacted, That the said Commissioners shall and they are hereby required forthwith and from time to time, as it shall appear to them expedient, to make and issue such general orders as they shall think fit, for carrying the provisions of this Act into execution, in respect of the several matters and things to be performed at the said office, and shall also from time to time make and establish such other rules and regulations, not being inconsistent with the enactments and provisions of this Act, or of any general order to be made and issued as aforesaid, as they shall in their discretion think fit and proper for simplifying, establishing and settling the practice to be henceforth in use relating to Licenses for Inventions, and from time to time to alter and rescind the same or any of them : Provided always, That no general order of the said Commissioners shall operate or take effect until the same shall have received the sanction and assent of the Lord High Chancellor.

16.
Commissioners to
make Rules.

General
Orders not to
be valid,
except sanc-
tioned by Lord
Chancellor.

And be it Enacted, That all monies and securities which shall be hereafter at any time standing to the said Account, intituled, " The Commissioners for Inventions' Account," shall be in the first place

1.
Monies stand-
ing to account
of Commis-
sioners, charge-
able first with

Compensation, secondly with Salaries of Officers and Expenses, and Surplus to be carried over to Consolidated Fund.

charged and chargeable with the payment of all sums of money, to be awarded in the manner aforesaid to the several Commissioners and other officers to be appointed for carrying this Act into execution, and the various other expenses incidental thereto; and after providing for the several matters aforesaid, the surplus of all such monies and securities shall be carried over by the said Commissioners on the *First* day of *February* in every year, and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

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18.
Act may be altered this Session.

And be it Enacted, That this Act may be altered, amended or repealed by any Act to be passed in this present Session of Parliament.

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19.
Act to come into operation as to appointment of Officers on passing, as to other matters 1st of January 1839.

And be it further Enacted, That this Act shall commence and take effect from and after *the passing thereof*, as to the appointment of the Commissioners and other officers hereby authorized; and as to the other matters and things, from the *First* day of *January One thousand eight hundred and Thirty-nine*.

Patterns and Inventions.

A

B I L L

For the better Encouragement of the Arts and Manufactures, and securing to Individuals the Benefit of their Inventions for a limited Time.

(Prepared and brought in by
Mr. Macdonald and Mr. Baines.)

Ordered, by The House of Commons, to be Printed,
23 December 1837.



(Ireland.)

A

B I L L

For the better Regulation of the Profession of Attorney and
Solicitor in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ it is expedient that the Provisions of the Preamble.
several Acts hereinafter mentioned, and from time to time
made for the regulation of the Profession of Attorney and Soli-
citor in Ireland, should be consolidated and amended, and further
5 Provision made for the better regulation of such Profession, and to
ensure the education, skill and respectability of Persons admitted
to the Practice thereof; ~~BE it therefore Enacted~~, by The QUEEN's
most Excellent MAJESTY, by and with the Advice and Consent of
the Lords Spiritual and Temporal, and Commons, in this present
10 Parliament assembled, and by the Authority of the same, THAT
from and after the *First day of Michaelmas Term One thousand eight
hundred and Thirty-eight*, the several Acts hereinafter mentioned
shall be and the same are hereby Repealed; (that is to say) an Act
made in the Parliament of Ireland, in the seventh year of the reign 1.
After the
First Day of
Michaelmas
Term next,
15 of King GEORGE the Second, intituled, "An Act for the Amend-
ment of the Law in relation to Popish Solicitors, and for the reme-
dying other Mischiefs in relation to the Practitioners in the several
Courts of Law and Equity;" an Act made in the same Parliament, 7 Geo. 2, c. 5,
in the thirteenth and fourteenth years of the reign of King GEORGE
20 the Third, intituled, "An Act for the better Regulation of the
Admission and Practice of Attorneys;" an Act made in the Par-
liament of the United Kingdom, in the first and second years of 13 & 14
Geo. 3, c. 23,
the reign of King GEORGE the Fourth, intituled, "An Act to
amend 1 & 2 Geo. 4,
c. 48,

256. A

3 Geo. 4, c. 16,
repealed,
save such
parts of the
two last Acts
as do not
relate to
Ireland.

Proviso for
persons now
entitled to
rights there-
under.

amend the several Acts for the Regulation of Attorneys and Solicitors;" and an Act made in the said last-mentioned Parliament, in the third year of the same reign, amending the said last-recited Act: Provided always, That the said two last-mentioned Acts shall be taken to be hereby repealed, only so far as the same relate or extend to persons seeking to be admitted as Attorneys or Solicitors in any Court of Law or Equity in Ireland, but shall remain in full force and effect so far as the same relate or extend to persons seeking to be admitted as Attorneys or Solicitors in any Court of Law or Equity in England and Wales: Provided also, That notwithstanding the repeal of the said Acts, all acts, matters and things heretofore done under or in pursuance of the said recited Acts, shall be good, valid and effectual to all intents and purposes: Provided also, That all persons now serving as Apprentices, and who would be entitled to be admitted as Attorneys or Solicitors in Ireland, under the laws now in force in Ireland, by virtue of such service, may be admitted and enrolled as if such service or apprenticeship had been commenced under and according to the provisions of this Act, being duly qualified in other respects to be so admitted.

2.
No person to
practise as an
Attorney or
Solicitor
unless admit-
ted before the
First Day of
Michaelmas
Term next,
or if after-
wards, in the
manner pro-
vided by this
Act.

And be it Enacted, That from and after the *First day of Michaelmas Term One thousand eight hundred and Thirty-eight*, no person shall act as a Solicitor or Attorney, or sue out any writ or process, or commence, carry on, or solicit or defend any action, suit or other proceeding, in the name of any other person, or in his own name, in Her Majesty's High Court of Chancery, or in the Courts of Queen's Bench, Common Pleas or Exchequer, or any other Court of Record or Equity in Ireland, or act as an Attorney or Solicitor in any cause, matter or suit, criminal or civil, to be heard, tried or determined before any Justice of Assize or Oyer and Terminer or Gaol-delivery, or in any cause or matter depending before any Commissioners of Her Majesty's Revenue, or Commissioners or other persons acting in any judicial capacity, or at any General or Quarter Sessions of the Peace for any county, city or place, or in the Court of any Assistant Barrister, or the Chairman of the Sessions of the County of Dublin, or the Commissioners of Bankruptcy, unless such person shall have been theretofore admitted, enrolled and otherwise duly qualified as an Attorney or Solicitor of one of Her Majesty's said Four Courts at Dublin, or unless such person shall be thereafter admitted, enrolled and otherwise duly qualified as an Attorney or Solicitor of one of the said Courts, pursuant and agreeably to the directions and regulations of this Act; and unless such person shall continue to be so duly qualified and on the Roll at the time of his acting in the capacity of an Attorney or Solicitor as aforesaid.

And

3.
No person to be admitted unless articulated and serving for Five Years or Three Years, as the case may be.

And be it Enacted, That from and after the said *First day of Michaelmas Term* no person shall be admitted to practise as an Attorney or Solicitor in any Court of Law or Equity in Ireland, who shall not have been bound by Indentures of Apprenticeship and served as an Apprentice or Clerk for and during the space of *Five Years* to a practising Attorney or Solicitor in Ireland: Provided always, That no person who shall take or have taken the degree of Bachelor of Arts within *Six Years* after his matriculation, or the degree of Bachelor of Laws within *Eight Years* after his matriculation, in some one of the Universities of Oxford, Cambridge, Dublin or London, and who shall, within *Four Years* after the day when he shall have taken such degree, be bound by Indenture of Apprenticeship as aforesaid, and have served as an Apprentice to any such Attorney and Solicitor for and during the term of *Three Years*, may be admitted as an Attorney or Solicitor as aforesaid, as if he had been so bound and served for and during the said term of *Five Years*: Provided also, That any person who shall have kept the regular terms in any one of the said Universities for a period of at least *Two Years* immediately preceding the time at which he may be bound Apprentice, and who shall, previous to his application for admission as an Attorney, and within *Four Years* after the expiration of his apprenticeship, have taken the degree of Bachelor of Arts or Bachelor of Laws, shall be admitted as an Attorney or Solicitor, although he shall have served as an Apprentice to an Attorney and Solicitor for and during the term of *Three Years* only: Provided also, That if any person who now is or hereafter shall be bound to serve as an Apprentice to any Attorney and Solicitor for the said term of *Five Years* as aforesaid, shall, with the consent of his Master previously obtained in writing for that purpose, actually and bonâ fide be and continue as pupil to any practising Barrister, or to any person practising as a certificated Special Pleader in England or in Ireland, for any part or parts of the said term of *Five Years*, not exceeding *One Year*, it shall be lawful to admit such person as an Attorney or Solicitor, as if he had actually served the whole of such term of *Five Years* as an Apprentice to the Attorney and Solicitor to whom he may have been bound, the facts being proved by affidavit or otherwise to the satisfaction of the Court in which he may apply to be admitted and enrolled.

4.
Officer filing Affidavit of Enrolment to enter the substance in a Book.

And be it Enacted, That every such officer or officers filing such affidavits as aforesaid shall keep a book, wherein shall be entered the substance of such affidavits, specifying the names and places of abode of every such Attorney or Solicitor and Apprentice bound as aforesaid, and of the person making such affidavit, with the date of the articles or contract in such affidavit to be men-

tioned, and the days of swearing and filing such affidavit; and such books shall and may be searched in office-hours by any person or persons whomsoever, without fee or reward.

5.
No Attorney
having dis-
continued to
practise, shall
retain an
Apprentice.

And be it Enacted, That from and after the said *First day of Michaelmas Term*, no Attorney or Solicitor shall take, have or retain any Apprentice who shall become bound by contract in writing as aforesaid, after such Attorney or Solicitor shall have discontinued or left off practice, or during such time as he shall not actually practise as or carry on the business of an Attorney or Solicitor.

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6.
Apprentice
to serve the
whole number
of Years.

And be it Enacted, That every person who shall after the said *First day of Michaelmas Term* become bound by contract in writing to serve an Attorney or Solicitor, shall during the whole term of service to be specified in such contract, continue and be actually employed by such Attorney or Solicitor or his or their agent or agents (being a duly admitted and qualified Attorney and Solicitor) in the proper business, practice or employment of Attorney or Solicitor, subject to the rules and orders to be made respecting the assignment of Apprentices as hereinafter mentioned.

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7.
Attorney not
to act as Agent
for unquali-
fied persons,
under penalty
of being
struck off
the Roll.

And be it Enacted, That from the said *First day of Michaelmas Term*, if any Attorney or Solicitor shall, upon the account or for the profit of any person or persons not being an Attorney or Solicitor, act in his own name, or permit or suffer his name to be in any way made use of, or send any process to any such person or persons, thereby to enable him or them to appear, act or practise in any respect as an Attorney or Solicitor, knowing him not to be duly qualified as aforesaid, and complaint shall be made thereof in a summary way to the Court from whence any such process shall have issued, and proof made thereof, upon oath, to the satisfaction of the Court, that such Attorney or Solicitor hath offended therein as aforesaid, then and in such case, every such Attorney or Solicitor so offending shall be struck off the roll, and thereby cease to be an Attorney or Solicitor; and in that case, and upon such complaint and proof made as aforesaid, it shall and may be lawful to and for the said Court to punish such unqualified person so acting or practising in manner aforesaid as for a contempt of Court.

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8.
Recites the
constitution
of the Society
of King's
Inns.

AND whereas the Society commonly called "The Society of King's Inns at Dublin," is governed by a body called the Benchers of such Society, consisting of the Lord Chancellor, the Judges of the superior Courts, Queen's Counsel and Barristers selected from the members of the said Society; but no member of the profession of Attorney or Solicitor has for a long time been elected one of the said governing body, although all the members of such profession

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of

of Attorney or Solicitor at present belong to such Society: AND
 whereas the said Benchers have from time to time framed rules
 and regulations as to persons seeking to become Attorneys and
 Solicitors becoming members of such Society, and also regulations
 5 for persons seeking to become Apprentices to Attorneys and
 Solicitors in Ireland, and have also imposed certain fees to be paid
 by such persons to the said Society; but it is expedient that all
 such powers and authorities so heretofore belonging to or claimed
 10 by the said Society of the King's Inns in respect of the appren-
 ticeship to Attorneys or Solicitors, or to the admission of Attorneys
 and Solicitors, or the fees demanded upon such apprenticeship and
 admission, should cease and determine, and that such powers and
 authorities should be placed under the direction and superin-
 15 tendence of the Society to be by this Act incorporated, subject
 however to the control of the Lord High Chancellor and the
 Judges of the other superior Courts in Ireland, as the same exists
 in England, and as is hereinafter mentioned and provided; BE it
 therefore Enacted and Declared, That from and after the said
First day of Michaelmas Term it is not and shall not be necessary
 20 for any person desirous of becoming an Attorney or Solicitor in
 Ireland to be a member of the said Society of the King's Inns, and
 that all powers and authorities heretofore or at present exercised
 or claimed to be exercised by the said Society of the King's Inns at
 Dublin, or the Members or Benchers thereof, and all rules and
 25 regulations at any time heretofore made by the said Society or
 Benchers relative to the apprenticing to Attorneys, or assignment
 of Apprentices to Attorneys, or to the admission of Attorneys and
 Solicitors into the said Courts in Ireland, and all fees demanded or
 payable by Attorneys or Apprentices, or persons seeking to become
 30 such, shall, from and after the said *First day of Michaelmas Term*
next cease, determine, and be and they are hereby declared to be
 null and void to all intents and purposes whatsoever: Provided
 always, That nothing herein contained shall affect the rights or
 privileges of any of the present Attorneys or Solicitors in Ireland
 35 as members of the said Society of the King's Inns.

That after the
 passing of this
 Act Attorneys
 and Solicitors
 need not be
 Members of
 the King's
 Inns; and the
 control of the
 Society of
 King's Inns
 over Attor-
 neys and So-
 licitors to
 cease.

Not to affect
 the rights of
 Attorneys
 now Members
 of King's Inns.

And be it Enacted, That the several Attorneys and Solicitors in
 Ireland, whose names are contained in the First Schedule to this Act
 annexed, and the several other Attorneys and Solicitors in Ireland
 who shall become Members of such Society so to be incorporated,
 40 according to the rules and regulations to be made as hereinafter
 mentioned, in respect of the admission of Members into such Society,
 and also the several other persons who shall hereafter from time to
 time be admitted into the said profession of Attorney and Solicitor
 in Ireland, shall respectively, so long as they shall continue Mem-
 bers thereof, be and they are hereby constituted into and shall form

9.
 Society Incor-
 porated.

one Body Corporate, by the name of "THE INCORPORATED SOCIETY OF ATTORNEYS AND SOLICITORS IN IRELAND," and by such name shall have perpetual succession, and shall and may for ever hereafter sue and be sued, plead and be impleaded, answer and be answered and defend in all Courts of Law and Equity; and also that they and their successors by the same name shall at all times hereafter for ever be able and capable in law to purchase, have and hold any lands and tenements for the purpose of erecting a Hall or Halls, with convenient chambers, buildings and appurtenances, so as such lands shall not exceed at any one time in the whole *Five* Statute Acres, and by the same name to grant, alien, assign, encumber and dispose of such lands, tenements and hereditaments or any part or parts thereof, and to do and execute all other things, lawful, necessary and convenient for the purposes of the said Society; and also that they and their successors shall and may for ever hereafter have a Common Seal, which shall always be and remain in the custody of the President for the time being of the said Society, or such other person or persons as shall or may be appointed seal-keeper or seal-keepers for the time being by the said Society; and that it shall and may be lawful to and for the said Society lawfully convened in manner hereinafter mentioned, or the major part of the Members thereof present at such meeting, to break, allow, change or make void the said Seal, and another or others from time to time to adopt and use as to the said Society shall seem requisite and proper: Provided always, That every practising Attorney or Solicitor in Ireland, who shall have been admitted and enrolled prior to the passing of this Act, and who shall be such practising Attorney or Solicitor at the time of the passing thereof, but who should not previously to the passing of this Act have become a Member of the Society to be incorporated by this Act, shall and may and he is hereby declared entitled to become a Member of such Society, on payment of such sum, not exceeding *Ten Pounds*, as shall hereafter be settled and determined by any bye-law or rule of such Society as hereinafter provided.

10.
Constitution
of Society.

And be it Enacted, That in order to carry the purposes of this Act into operation and effect, there shall for ever hereafter be a Council composed of *Twenty-four* Members of the said Society, which Council shall consist of a President, *Two* Vice-Presidents, and *Twenty-one* Assistants, *Seven* of whom shall be a quorum for all the purposes of this Act; and that Josias Dunn, Esquire, shall be and he is hereby nominated and declared to be the first and present President of the said incorporated Society of the Attorneys and Solicitors of Ireland; and that William Goddard and Thomas Beasley, Esquires, shall be and they are hereby nominated and declared to be the first and present Vice-Presidents of the said incorporated

incorporated Society, and that Matthew Franks, John Litton, Edward Tandy, James Watt, Richard John Theodore Orpen, Arthur Barlow, Pierce Mahony, William Ford, Thomas Babington, John Thomas Kift, Wills Hill Mecredy, Richard Alexander Walker, Isaac Ogle Glenney, William Hamilton Roe, Alexander Montgomery, John Grene, Patrick Costelloe, William Baily Wallace, junior, Samuel Knox, Edmund O'Beirne, and William Sterne Hart, Esquires, shall be and they are hereby nominated and declared to be the first and present Assistants of the said Society ; and that such President, Vice-Presidents and Assistants hereby appointed shall form the first Council of the said Society, and shall act as such until a new Council shall be elected in manner hereinafter mentioned.

And be it Enacted, That a General Meeting of the said Society shall be held upon the day next after the last day of Michaelmas Term, which will be in the year of our Lord *One thousand eight hundred and Thirty-nine*, not being Sunday, and on the day next after the last day of every succeeding Michaelmas Term not being Sunday as aforesaid, between the hours of Nine and Four of the clock of the day, at the Hall of the said Society, or such other place as shall be appointed by the Council of the said Society for that purpose ; and the said Society shall proceed to elect by ballot from and amongst the Members thereof *One* Member to be President, *Two* to be Vice-Presidents, and *Twenty-one* to be Assistants, together with a Secretary and Treasurer, such President, Vice-Presidents and Assistants to be the Council ; and such Secretary and Treasurer to be the Secretary and Treasurer of the said Society for one year, and until others shall be elected in their room ; and such meeting shall, if necessary, adjourn from day to day, Sunday excepted, until forty-one Members of the said Society at the least shall have balloted at such election : Provided always, That *Seven* of such Assistants who shall be members of the said Council for any one year, to be determined by lot, or among themselves previous to the election of a new Council, shall not be eligible to be Assistants of the Council for the ensuing year.

11.
Annual General Meeting for Election of Council, Secretary and Treasurer.

And be it Enacted, That when and so often as any President or Vice-President, or any Secretary or Treasurer appointed under or elected by virtue of this Act, shall die or shall resign in the course of any current year, it shall be lawful for the Council to elect from among themselves, by a majority of votes, some other member or members to fill the office and discharge the duties of President or Vice-President during the remainder of the year for which such President or Vice-President would otherwise have been entitled to serve ; and also to appoint any proper person to fill the office and discharge the duties of Secretary and Treasurer until the period for

12.
For supplying Vacancies in the President or Vice-President, and Secretary or Treasurer.

the election of Secretary and Treasurer under the provisions of this Act shall arrive:

13.
Power to
Council and
General Body
to make the
Rules as to
Articled
Clerks, &c.,
subject to the
approbation
of the Judges,
and to alter
same from
time to time,
subject to like
approbation.

And be it Enacted, That from and after the *passing of this Act*, the said Council of the said Society, and all future Councils thereof to be elected as aforesaid, shall, and they are hereby authorized and empowered from time to time to frame, make and publish such rules, ordinances, regulations and orders respecting the education, qualifications, forms and payments which shall be required of and from all persons who shall after the *passing of this Act* apply to be articled or bound to any Attorney or Solicitor in Ireland, previously to such person being so articled or bound, or during or upon the expiration of such their Apprenticeship, whether as to the assignment of his or their Indentures of Apprenticeship or otherwise, and also the duties to be observed by Masters and Apprentices during such Apprenticeship, and the examination, forms and qualifications necessary before any such Apprentice shall be admitted into or entitled to practise in such profession of Attorney or Solicitor in Ireland: Provided always, That such rules, regulations, ordinances and orders be not repugnant to or inconsistent with the provisions of this Act or of any law or statute now in force, save and except such enactments as are repealed by this Act: Provided also, That such rules, regulations, ordinances and orders or any of them shall not have any force or effect until they shall have been posted in the Common Hall or other place of meeting of the said Society for the space of *One calendar Month* from the day they shall have been signed by or on behalf of the said Council, nor until the same shall have been submitted to and approved of by the majority of the members of said incorporated Society present at a general or at a special meeting of the said Society convened for the purpose by the said Council, and of which meeting and the object or objects thereof *Twenty-one Days'* notice at the least shall be inserted *Three* several times in Two Dublin newspapers, and posted in the Common Hall or other place of meeting of the said Society, at which general or special meeting such intended bye-laws, rules, regulations, ordinances and orders, or any of them, may be altered and varied in the whole or in part, as shall be agreed to by the majority present thereat, nor until such rules, regulations, ordinances and orders so approved of at such general or special meeting of the said Society shall have been approved of and signed by the Lord High Chancellor of Ireland, the Master of the Rolls in Ireland, and Judges of the Courts of Queen's Bench, Common Pleas and Exchequer in Ireland for the time being, or the major part of them; and it shall and may be lawful to and for the Council of the said Society from time to time to alter, vary and repeal such rules, ordinances, regulations, orders and bye-laws, or any of them, and to make such others

others as to the said Council shall seem meet and expedient ; such new, amended, altered or varied rules to be posted, submitted and approved by or at some general or special meeting of the said incorporated Society, and afterwards by the said Lord Chancellor, 5 Master of the Rolls and Judges, or the major part of them, in like manner as is hereinbefore directed with respect to the said first-mentioned rules, orders and regulations ; and the same when so finally approved of shall be printed and posted in the Common Hall of, the said Society, and shall be thenceforward, until altered as 10 hereinafter mentioned, binding upon all members of the said profession of Attorney and Solicitor in Ireland, and all persons seeking to become members of said profession, and upon all persons seeking to be bound apprentices to the same, and shall be sufficient in any Court of Law or Equity to justify all persons making or 15 acting under same, or according thereto ; and such Lord Chancellor, Master of the Rolls and Judges for the time being, or the major part of them, are hereby required to approve or to disapprove in writing of such rules, ordinances, regulations and orders, or such altered, varied or amended rules, ordinances, regulations or 20 orders, within *One Month* from the time at which the same shall be laid before them in manner aforesaid ; and in case the said Judges shall not express in writing their disapprobation of the said rules, ordinances, regulations and orders to the said Council of the said incorporated Society within the said period, such rules, ordinances, 25 regulations and orders shall be final, binding and effectual to all intents and purposes as if the same had been approved of in writing by the said Lord High Chancellor, Master of the Rolls and Judges, or the major part of them, as aforesaid.

And be it Enacted, That the Council so nominated as aforesaid, and every future Council, shall have the power of ordaining, framing and making such bye-laws, rules and regulations for the due discharge of the business of such Society, and for the regulating the admission of members into such Society, and the management of the funds and affairs of the same, as they shall 30 from time to time see fit, which bye-laws, rules and regulations shall from time to time be entered in a book or books to be kept for that purpose in the office of the said Society, and subscribed by such Council so assembled or their Chairman ; and such bye-laws, rules and regulations shall be observed and performed until altered 35 by any subsequent bye-laws, rules or regulations of the Council of the said Society for the time being, and shall be of as much force and effect as if the same had been specifically included in and enacted by this Act: Provided always, That no such last-mentioned bye-laws, rules, orders and ordinances shall have any force or effect until approved of by the majority of Members of the incorporated 40

256. B Society

14.
Power to
Council to
make Bye-
laws for their
own gover-
nance, subject
to approval of
General
Body.

Society present at a General Meeting or a Special Meeting of the said Society, convened for the purpose by the Council of the said Society, by *Three Weeks' Notice*, to be inserted in at least *Two* Dublin Newspapers, at which meeting *Forty-one* Members at least must be present, and that such Meeting may alter, vary or repeal wholly or in part such bye-laws, rules, orders and ordinances, so as all and singular such bye-laws, rules, orders and ordinances be not repugnant to this Act, or to the laws or statutes now in force, and not repealed by this Act. 5

15.
Two Annual
General
Meetings of
the Society to
be holden.

And be it Enacted, That in addition to such General Meeting hereby directed, there shall be for ever hereafter in every year *Two* other General Meetings of the said incorporated Society, which *Two* General Meetings shall be at the Hall of said Society, or such other place as shall be appointed by the said Council thereof, videlicet, on the *Tenth* Day after the last day of Hilary and Trinity Term in every year not being Sunday; at which *Two* General Meetings of the said Society it shall and may be lawful for the majority of the Members present thereat to ordain and make such and so many bye-laws, rules, orders and ordinances for the further regulation of the Society and of the members and affairs thereof, and generally for carrying the objects for which the Society is founded into full and complete effect, with all such reasonable fines, penalties and americiaments to be contained in such bye-laws, rules, orders and ordinances, as to the said majority shall seem meet, and from time to time to alter, change and annul the said bye-laws, rules, orders and ordinances, penalties, fines and americiaments, as the majority at such Meetings shall think right, so as all and singular such bye-laws, rules, orders and ordinances, penalties, fines and americiaments be not repugnant to the provisions of this Act or to the laws and statutes in force in Ireland: Provided always, That *Forty-one* Members at least of such Society be present at such general meetings; and provided also, That *Three Weeks' Notice* at the least, in writing, be posted in the Rooms of the said Society of any proposed new bye-laws, rules, orders or ordinances or alteration in any existing bye-laws, rules, orders or ordinances. 10 15 20 25 30 35

16.
Power to call
Special General
Meetings.

And be it Enacted, That it shall and may be lawful to and for the Members of the said Society, by requisition in writing, signed by *Thirty-one* Members at the least of the said Society, to call upon and require the said Council of the said Society to convene any public General Meeting of the said Society for any professional purpose or purposes, or appertaining or incident to the administration or practice of the laws in these realms; and in case the said Council shall omit, decline or refuse to convene such General Meeting, that it shall and may be lawful for the Members of the said incorporated Society, or any *Thirty-one* of such Members, to convene such General Public Meeting 40

Meeting of the said Society : Provided always, That *One Week's* Notice of the time, place and object or objects of such General Meeting shall be given in *Two* Dublin Newspapers, and posted in the Common Hall or other place of meeting of the said Society.

5 And be it Enacted, That in all cases where it shall be necessary for any person or persons to commence or prosecute any suit or action at law or in equity, against the said incorporated Society, it shall and may be lawful for such person or persons respectively to serve or cause to be served a copy or copies of any writ or process
10 whatsoever upon the Secretary for the time being, which service or services shall be taken and adjudged in all Courts whatsoever to be good and effectual service and services upon the said Society, to all intents and purposes whatsoever ; and that all proceedings to be instituted by the said incorporated Society in any Court of Law
15 or Equity shall be instituted and carried on in the name of the Secretary for the time being of said Society.

17.
Service on the Secretary good service.

AND whereas by the Acts now regulating the collection and management of Stamp Duties in Ireland the sum of Seven Pounds, part of the duty of Fifty Pounds upon each part of the Indentures
20 binding an Apprentice to an Attorney, is made payable to the Treasurer of the said Society of the King's Inns, to be applied by him in such manner as the said Society shall direct : AND whereas under the provisions of this Act Attorneys and Solicitors will no longer require to become or be Members of the
25 said Society of King's Inns, and it is reasonable that the payment aforesaid, arising from the apprenticeship of persons desirous of becoming Attorneys and Solicitors shall henceforward be made to the incorporated Society of Attorneys and Solicitors ; BE it therefore Enacted, That from and after the *passing of this Act*, the said
30 sum of Seven Pounds, part of the duty of Fifty Pounds upon each part of the Indenture binding an Apprentice to an Attorney, shall be paid to the Treasurer of the said incorporated Society of Attorneys and Solicitors in Ireland, instead of to the Treasurer of the said Society of King's Inns, to be by the said Treasurer of the said incorporated Society of Attorneys and Solicitors in Ireland applied in
35 such manner as shall be directed by such incorporated Society ; and that an account of the monies so from time to time to become payable and be paid to the Treasurer of the said Society of Attorneys and Solicitors in Ireland, shall be kept in like manner as by the
40 said Acts is directed in respect of the same sums so heretofore payable to the Treasurer of the said Society of the King's Inns.

18.
Fees heretofore payable to King's Inns to be paid to the Secretary.

AND whereas the forms of the examination now gone through by persons seeking to become Attorneys or Solicitors in Ireland have been found altogether ineffectual ; BE it Enacted, That instead
256. thereof

19.
Judges to appoint Twelve Attorneys to be Examiners of Persons seeking to be admitted.

thereof the Lord High Chancellor of Ireland, the Master of the Rolls in Ireland, and the Judges of the Courts of Queen's Bench, Common Pleas and Exchequer in Ireland, or the major part of them, shall, and they are hereby directed and required, within Two Months after the passing of this Act, and from time to time as occasion shall require, to nominate and appoint Twelve Persons, being Attorneys and Solicitors in Ireland and Members of the said incorporated Society, to be Examiners of all persons desirous of being admitted Attorneys or Solicitors into any of the Courts of Law or Equity in Ireland; and that any Three of such Examiners shall be competent to conduct the said examination; and that from and after the passing of this Act (subject to such appeal as hereinafter mentioned) no person shall be admitted to be sworn an Attorney or Solicitor of any of the said Courts of Law or Equity, except on production of a Certificate signed by the major part of such Examiners actually present at and conducting his examination, testifying his fitness and capacity to act as an Attorney or Solicitor (as the case may be); such Certificate to be in force only to the end of the term next following the date thereof, unless such time should be specifically extended by the order of a Judge of such Court.

20.
Examiners to conduct Examination under Rules to be previously approved of by the Judges.

And be it Enacted, That the Examiners so to be appointed shall meet and conduct the said examination under rules and regulations to be first submitted to and approved by the said Lord High Chancellor, Master of the Rolls and Judges of the said Courts of Queen's Bench, Common Pleas and Exchequer, or the major part of them, such rules and regulations to be printed and posted in the Common Hall or other place of public meeting of the said Society.

21.
Examination to be held in the Hall of the Society.

A Term's Notice to be given of the intention to submit to such Examination.

And be it Enacted, That such examinations shall be held in the Hall of the said incorporated Society, or, until such Hall be built, in such other place as the Council of the said Society shall appoint, on such days in each Term as the said Examiners or any Five of them shall appoint; and that any person, not previously admitted an Attorney or Solicitor of the said Four Courts, and desirous of being first admitted into any of the said Courts, shall give a full Term's Notice in writing to the said Examiners of his intention to apply for examination, by leaving the same with the Secretary of the said incorporated Society, in the Office of the said Society; which Notice shall be in such form as shall be prescribed by any rule or bye-law of the said incorporated Society.

22.
All Persons applying for Admissions, to attend and submit to examination, and produce Papers.

And be it Enacted, That every person so applying shall attend the said Examiners at such time or times, and at such place or places, and produce such documents, and submit to such rules and regulations as shall be appointed by said Society, and approved of by the

the said Lord High Chancellor, Master of the Rolls and Judges, as hereinbefore mentioned.

And be it Enacted, That upon compliance with the aforesaid regulations, and when the major part of the said Examiners actually
 5 present at and conducting the said examination shall be satisfied as to the fitness and capacity of the person so applying to be admitted into any of the said Courts, but not otherwise, the said Examiners so present, or the major part of them, shall and they are hereby required to certify the same under their hands, in the form of
 10 Number 1, in the Second Schedule to this Act annexed.

23.
If qualified,
Certificate of
approval to be
given.

Provided always, and be it Enacted, That in case any person shall be dissatisfied with the refusal of the said Examiners to grant such Certificate, he shall be at liberty to apply for admission by
 15 Petition to the Court in which he shall be desirous of being admitted, upon which no fee shall be required; and such Petition shall be heard by such Court at such time as it shall appoint, and such Court shall upon the hearing thereof make such order as to it shall seem meet: Provided always, That such Petitioner shall and he is hereby required to give or cause to be given *Ten Days'* Notice
 20 in writing of the day appointed for such hearing, and also a copy of such Petition to the said Examiners, by leaving the same with the Secretary of the said Society in the Office of the said Secretary; and that it shall and may be lawful for the said Society, by their Secretary, Counsel or Solicitor, to appear and be heard at the
 25 hearing of such Petition, in opposition thereto or otherwise as the said Examiners shall deem fit.

24.
Power of
Appeal
against Exa-
mination.

And be it Enacted, That the Judges of the said Courts respectively, if they shall see fit, may before they shall admit any person to be an Attorney or Solicitor, examine and inquire, by such fur-
 30 ther or other ways and means as they shall think necessary, touching the fitness of such person to act in that capacity; and if they respectively shall be satisfied that such person is duly qualified to be admitted to act in that capacity, then the said Judges of the said Courts respectively shall and they are hereby authorized and
 35 required to administer in open Court to such person the oath hereinafter directed to be taken by Attorneys or Solicitors, in addition to the Oath of Allegiance; and after such Oaths taken, to cause such person to be admitted an Attorney or Solicitor, as the case may be, in such Court, and his name to be enrolled as an
 40 Attorney of such Court.

25.
Power to the
Judges to
make further
inquiries
before Ad-
mission.

And be it Enacted, That every person who shall, pursuant to this Act, apply to be admitted and enrolled an Attorney or Solicitor in the said Courts of Chancery, Queen's Bench, Common Pleas or
 256.

26.
Attorneys to
take Oath in
Schedule on
admission,
instead of the
Oaths now
taken.

Exchequer, shall before he shall be admitted and enrolled as afore-
said take and subscribe the Oath marked Number 2 in the Second
Schedule to this Act annexed, instead of the Oath or Oaths here-
tofore usually taken by the Attorneys or Solicitors of such Courts
respectively ; and it shall not be necessary for any person, for the
purpose of admission as an Attorney or Solicitor of any Court in
Ireland after the passing of this Act to take any other oath what-
soever save and except the Oath of Allegiance, any law, statute
or usage to the contrary notwithstanding.

27.
Names of
Persons to be
enrolled.

And be it Enacted, That such Officer of each of the said Courts
of Chancery, Queen's Bench, Common Pleas or Exchequer, as the
said Lord Chancellor or Master of the Rolls, Judges or Barons of
such Courts respectively shall from time to time appoint to dis-
charge such duty, shall and they are hereby respectively required
from time to time, without fee or reward, to enrol the name of any
person who shall be admitted an Attorney or Solicitor in the said
respective Courts, pursuant to the directions in this Act, and the
time when admitted, in an alphabetical order, in rolls or books to
be provided and kept for that purpose in their said several offices,
and to be open to public inspection as the Court shall direct.

28.
Person ad-
mitted in one
Court not re-
quired to
give Notice
of their inten-
tion to apply
for admission
into other
Courts.

Provided also, and be it Enacted, That it shall not be necessary
for any person being an Attorney of any one of the said Courts of
Queen's Bench, Common Pleas or Exchequer, and desirous of
being admitted an Attorney of any other of the said Courts, or a
Solicitor of the Court of Chancery, to give any such notice to the
said Society, or to undergo any such examination as hereinbefore
mentioned, and that the said regulations in that behalf herein-
before contained shall not be taken to extend to any such person :
Provided nevertheless, That it shall be lawful for any such Court,
if it shall so think fit, to direct such person to be examined in
manner before mentioned as to his fitness to act in such capacity.

29.
No person to
be re-ad-
mitted with-
out giving
proper
Notices.

Provided also, and be it Enacted, That any person who having
been admitted an Attorney or Solicitor of any of the said Courts,
having had his name removed from the said roll, shall at any time
afterwards be desirous of being re-admitted and of having his name
replaced on such roll, such person shall and he is hereby required
to cause a notice of his intention to apply for that purpose to be
posted in the said Courts respectively, and a copy of such Notice
to be delivered to the Secretary of the said incorporated Society
Six Weeks at least before the commencement of the Term in or as
of which he may so propose to be re-admitted ; and such Notice
shall state his place or places of abode at the time of posting and
delivering the same, and during the time he shall have so ceased to
practise as an Attorney or Solicitor, and his occupation during such
time ;

time ; and such person so applying shall attend the Examiners to be appointed as aforesaid, and answer all such questions as they shall think fit to put in reference to his occupation or otherwise during the said period in which he shall have so ceased to act as an Attorney or Solicitor, and all other matters proper or material to determine his eligibility to be re-admitted ; and it shall not be lawful to replace the name of any such person on the said rolls, or to re-admit him to be a Solicitor or Attorney of any such Court, unless the statements contained in the said notice shall be verified upon oath before some Judge of the Court, nor unless he shall produce to such Court a certificate signed by the said Examiners or by the major part of those present as aforesaid, that he is a fit and proper person to be re-admitted : Provided always, That in case any such person shall be dissatisfied with the refusal of such certificate, he may nevertheless apply by petition for re-admission to the said Court, giving the like notice to the said Society of the time appointed for the hearing of such Petition, as hereinbefore required in the case of persons dissatisfied with the refusal of the certificate to be obtained by persons for the first time applying for admission ; and that on the hearing of such Petition it shall be lawful for such Court to re-admit or refuse to re-admit such person as it shall seem proper, after hearing the matter, and any thing which may be alleged by the said Examiners, or by the said Society, their Secretary, Counsel or Solicitor.

25 Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prevent the said Courts, or any of them, from examining and inquiring into the character and qualifications of such persons as shall apply to be admitted Attorneys or Solicitors therein respectively, or from admitting or refusing to admit such persons in such manner, and with discretion, as the said Courts respectively have heretofore in that behalf lawfully used.

30.
Present Act
not to control
the existing
powers of the
Courts.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act ; and shall be judicially taken notice of as such by all Judges, Justices and others.

31.
Public Act.

SCHEDULES

TO WHICH THE FOREGOING BILL REFERS.

THE FIRST SCHEDULE,

Containing the NAMES of the several ATTORNEYS and SOLICITORS in Ireland, who have formed themselves into a Society for the better regulation of their Profession, and by this Bill to be incorporated.

Josias Dunn.
William Goddard.
Isaac Ogle Glenny.
Richard Meade.
James Kelly.
Hill Wilson.
Thomas Babington.
George Armstrong.
Thomas Slacke.
John Vincent Horan.
Charles Meares.
Henry Ryan.
William Smith.
William Christian.
Edward Elliott.
Bernard Maguire.
Edward Sandy.
Richard A. Walker.
Villiers B. Towler.
William James Gwynne.
Theophilus Digges La Touche.
Alexander Bate.
George Kelly.
Georgé Westropp.
John Grene.
John A. Hunter.
Richard P. Tighe.
Arthur Bushe.
Henry Staines.
Patrick Clarke.
John Vincent.
Thomas Black.
Thomas Carmichael.
Hezekiah O'Callaghan.
Charles Geoghegan.
William Peebles.
Denis Burke.
John Rorke.

William Cullen.
John Galloway.
James O'Shaughnessy.
Richard Babington.
Thomas Purcell.
Adam John Macrory.
Edward Maguire.
William Tucker.
Thomas John Beasley.
William T. Kent.
John Carroll.
Samuel Dudgeon.
Francis James Card.
George Dartnell.
John Walshe.
John Blennerhassett.
Wellesley Pole Fletcher.
William Gresson.
Edward W. Cooper.
Henry P. Woodrofe.
Joseph Scott Moore.
Charles O'Dogherty.
Usher Beere.
Richard Exham.
John Thomas Kift.
Robert M'Naghten.
Wills Hill Mecredy.
John Hazlitt.
Richard J. T. Orpen.
George Barclay.
William Cranston.
John Hall.
Stephen Gordon.
Edward Simmonds.
William M. Frazer.
Robert Cope Hardy.
William Roche.
Samuel Knox,

Charles

Charles M. Stack.
 Carden Terry.
 George Connor.
 Edward Jones.
 John M'Mahon.
 David Bell.
 William Duckett.
 John Moffett.
 James O'Dowda.
 William Sterne Hart.
 Arthur Barlow.
 Robert Power.
 John Boyse.
 John Henry Norton.
 William Woodroffe.
 Michael Mortimer.
 John Faris.
 L. P. Parke.
 Torton Samuel Walker.
 William H. Bradish.
 William Young.
 Robert Murdock.
 A. C. Pallas.
 R. W. Scallan.
 A. A. Griffith.
 Robert Greer.
 George Kernan.
 William Galwey.
 Thomas Conry.
 Thomas Beasley.
 John Litton.
 James M'Cormick.
 James Bate.
 James Watt.
 Felix Boylan.
 William Magrath.
 William Woodlock.
 Charles Gausson.
 Henry C. Sweny.
 Thomas Edmond Wright.
 James Elliott.
 Thomas Copperthwaite.
 Anthony R. Kearney.
 Edward Crawford.
 Edward Reynolds.
 Peter Thomas Legh.
 Gustavus Hamilton.
 Patrick Fitzpatrick.
 Christopher Williams **Campion**.
 William Collins.
 William Roe.
 George Robert M'Grath.
 Matthew Franks.
 John William Browne.
 John Maher.
 Henry Cummins.
 Murdock Greene.

256.

c

Christopher Reynolds.
 John Parker.
 James Cowley, junior.
 Brabazon Browne.
 Godfrey Fetherston H.
 Godwin Swift.
 Latham Blacker.
 Robert Story.
 William Henry M'Grath.
 William Hamilton Roe.
 Abraham Coles.
 Alexander Symmers.
 Edward John Smith.
 George Pilkington.
 William Miller.
 Samuel Wauchob.
 George Little.
 Samuel Fewtrell.
 John Murphy.
 Pierce Mahony.
 Thadde William Murphy.
 W. H. Crawford.
 Charles O'Connor.
 Terence O'Reilly.
 Lynn Carew.
 George Archer.
 William White.
 James Blackeney.
 Oliver Anselm Tibeaud.
 T. B. Geary.
 Thomas Ardill.
 Robert Mansell.
 John Orpin.
 William Taplow.
 Thomas S. Fleming.
 William Patrickson **Pike**.
 John C. Lyons.
 Kenny Purcell.
 Edward Blackeney.
 Dillon M'Namara.
 Thomas S. Snagg.
 Joseph Lindsey Curtis.
 Michael Gallway.
 David Ryan.
 Robert Smith.
 Keith C. H. Hallows.
 Henry Farange.
 Robert Simpson.
 William M'Dermott.
 William Thomas Graham.
 Walter Goold.
 Richard Montgomery.
 Stephen Blake.
 William Taylor, junior.
 William Ottard.
 William Gibson.
 Thomas Courtney.

Richard

Richard Prendergast.
Benjamin Hinde.
William Middleton.
Joseph Hone, junior.
John Smith.
John Jones.
Richard Cathcart.
Richard Montgomery.
George Hines.
John Hane.
Joseph M'Minn, junior.
John Creed.
Thomas Reilly.
David Mahoney.
William Baily Wallace, junior.
John Browne.
George Rankin.
Charles Whitton.
William Henry Carroll.
William Ford.
Terence T. Dolan.
Patrick Scott.
Robert Simpson.
Edmund O'Birne.
Edward Murray.
Matthew Barrington.
John Rorke.
E. W. Seymour.
John Kelly.
Edmund Mooney.
Patrick A. Taaffe.
Charles Cavanagh.
Edward Doyle.
Robert Maxwell.
Josias Dunn, junior.
James Scott Molloy.
Anthony Hogan.
P. M. Hewson.
William Dix.
David Daly.
Thomas Griere.
R. F. Griffith.
James Armstrong.
Matthew Anderson.
Japhet Alley.
William T. Barlow.
William Barrett.
Edwin Battersby.
Daniel Bastable.
James G. Billing.
Isidore Bourke.
E. R. Ball.
Richard Bolton.
William J. Cooper.
John Collum.
William B. Cowley.
Redmond Carroll.

Thomas Crozier.
John Chadwick.
Edward Carr, junior.
William Cosgreave.
Patrick Costelloe.
Thomas Croker.
Michael Corcoran.
John Cantwell M'Namara.
R. W. Cherry.
Robert Anthony Disney.
George Dundas.
John Donnelly.
David Davidson.
Henry Farange.
William Furlong.
James Freke.
James Falls.
Michael Fox.
John Flood.
John Ferguson.
George Dewar Fottrell.
R. H. Hemphill.
Joseph Holmes.
Richard Hewitt.
Richard Jordan.
William Henry Jackson.
William M. Keogh.
Edward Killet.
Thomas Kellar.
Michael Kennedy.
William Thomas Kelly.
B. E. Lawless.
John C. Lloyd.
William Lewis.
Connel Loughnan.
William Henry Moore.
F. W. Moore.
Francis Morgan.
Peter M'Keogh.
J. H. Martin.
Alexander Montgomery.
John Martin, junior.
Edward Matthews.
Terence Hughes.
Henry Murphy.
Philip Montgomery.
George M. M'Gusty.
Richard M'Intosh.
James M'Fadden.
James Nixon.
Arthur Nugent.
William Neilson.
Neil John O'Neil.
Basil Orpen.
Richard O'Conner.
Edward Piles.
Samuel Potter.

Edward Orpen Palmer.
 Charles Pickering.
 Thomas Ratcliffe.
 W. F. Rogers.
 Edward Reeves.
 J. S. Reeves.
 J. E. Roach.
 Richard Scott.
 T. R. Symes.
 Hugh Simpson.
 Thomas Seward.
 Charles Smyth.
 John Sadleir.
 William H. Smyth.

G. R. Stapleton.
 John Thunder.
 William Taylor.
 Alexander Thompson.
 C. S. Tandy.
 James Vance.
 Nicholas Vincent.
 Robert Vincent.
 Robert Warren.
 Robert A. Wallace.
 J. L. Wharton.
 Charles Wilkins.
 William H. Wright.

THE SECOND SCHEDULE.

No. 1.

IN pursuance of an Act passed in the first year of the reign of Her Majesty Queen VICTORIA, intituled [here set out the title of the Act], We, being the major part of the Examiners actually present at and conducting the Examination of A. B. of [et cetera,] Do hereby certify, That we have examined the said A. B., and we do certify that the said A. B. is fit and qualified to be admitted and enrolled an Attorney of the Court of [name the Court] in Ireland. Dated this day of One thousand eight hundred and Thirty-

No. 2.

I, A. B., do swear, That I will truly and honestly demean myself in the practice of an Attorney [or, Solicitor, as the case may be], according to the best of my knowledge and ability.

So help me God.

Attorneys and Solicitors.

(Ireland.)

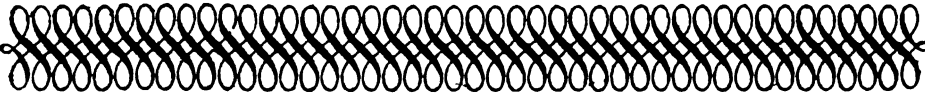
A

B I L L

For the better Regulation of the Profession
of Attorney and Solicitor in Ireland.

(Prepared and brought in by
Mr. O'Connell and Mr. Litton.)

*Ordered, by The House of Commons, to be Printed,
28 March 1838.*



A

B I L L

To amend an Act of the Fourth and Fifth Years of his late Majesty, empowering his Majesty to erect South Australia into a British Province or Provinces.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W ~~H E R E A S~~ by an Act passed in the fourth and fifth years of Preamble:
the reign of his late Majesty, intituled, “ An Act to empower
his Majesty to erect South Australia into a British Province or Pro-
vinces, and to provide for the Colonization and Government thereof,”
5 his Majesty was empowered, with the advice of his Privy Council, to
erect and establish within that part of Australia which lies between the
meridians of the One hundred and thirty-second and One hundred
and forty-first degrees of East Longitude, and between the Southern
Ocean and the Twenty-sixth degree of South Latitude, together with the
10 Islands adjacent thereto, and the Bays and Gulfs thereof, one or more
Provinces, and to fix the respective boundaries of such Provinces ;
and by the said Act it was enacted, that it should be lawful for his
Majesty, by warrant under the Sign Manual, countersigned by his
Majesty’s Principal Secretary of State for the Colonies, to appoint
15 three or more fit persons to be Commissioners to carry certain parts of
the said Act into execution, such Commissioners to be styled “ The
Colonization Commissioners for South Australia :”

And whereas by a Warrant under the Sign Manual of his said Majesty,
and countersigned by the Right Honourable Charles Baron Glenelg, one
20 of his Majesty’s Principal Secretaries of State having the Department
of the Colonies, Robert Torrens, William Alexander Mackinnon,
William Hutt, John George Shaw Lefevre, George Palmer the younger,
521. Jacob

Jacob Montefiore, Samuel Mills, Edward Barnard, Josiah Roberts, and James Pennington, Esquires, were duly appointed to be such Colonization Commissioners for South Australia :

And whereas his said Majesty, on or about the

by Letters 5

Patent under the Great Seal of Great Britain, with the advice of his Privy Council, and in pursuance of the powers in that behalf vested in his said Majesty by the said recited Act of Parliament, did erect and establish one Province, to be called "The Province of South Australia," and did thereby fix the boundaries of the same 10 Province in manner following; (that is to say) on the North the Twenty-sixth degree of South Latitude, on the South the Southern Ocean, on the West the One hundred and thirty-second degree of East Longitude, and on the East the One hundred and forty-first degree of East Longitude, including therein all and every the Bays 15 and Gulfs thereof, together with the Island called Kangaroo Island, and all and every other Islands adjacent to the said last-mentioned Island, or any part of the main land of the said Province; and it was thereby provided that nothing in the said Letters Patent contained should affect or be construed to affect the rights of any aboriginal 20 natives of the said Province to the actual occupation or enjoyment in their own persons, or in the persons of their descendants, of any lands therein then actually occupied or enjoyed of such natives :

And whereas the sum of Thirty-five thousand Pounds has been raised by the sale of lands in the said Province, and the sum of 25 Thirty-nine thousand Pounds has been raised by the issue of South Australia Colonial Revenue Securities for the purposes in the said Act mentioned; and the sum of Twenty thousand Pounds, part thereof, has been invested in Government Securities, in the names of Trustees appointed by his Majesty as a guarantee or security fund, as required 30 by the said Act :

And whereas doubts have arisen as to the extent of the powers vested in the said Colonization Commissioners for South Australia by the said Act, and it is expedient that such powers should be more clearly defined, and that the provisions of the said Act should be 35 amended in manner hereinafter mentioned :

And whereas it is in and by the said Act provided, that it should be lawful for his Majesty, his heirs and successors, with the advice of his or their Privy Council, to authorize and empower such persons as therein mentioned to make, ordain and establish laws, institutions 40 and ordinances, and to constitute courts, and to appoint officers, chaplains and clergymen, and to levy rates, duties and taxes as therein

therein mentioned; ~~BE~~ it ~~Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the aforesaid powers
 5 and authorities shall be and the same are hereby repealed; and in lieu thereof it shall and may be lawful for Her Majesty, Her heirs and successors, by any Order or Orders to be by Her or them made, with the advice of Her or their Privy Council, to make, ordain, and by warrants under Her or their Sign Manual (subject to such conditions and restric-
 10 tions as to Her or them shall seem meet) to authorize and empower any Three or more persons resident and being within the said Province, to make, ordain and establish all such Laws, Institutions or Ordinances, and to constitute such Courts, and to impose and levy such rates, duties and taxes as may be necessary for the peace, order and
 15 good government of Her Majesty's subjects and others within the said Province: Provided, That all such Orders and all Laws and Ordinances so to be made as aforesaid, shall be laid before The Queen in Council as soon as conveniently may be after the making and enacting thereof respectively, and that the same shall not in anywise be contrary or
 20 repugnant to any of the provisions of the said recited Act or of this Act.

1.
Powers under former Act repealed, and new Powers given to Her Majesty.

And be it Enacted, That it shall and may be lawful to and for the said Commissioners to raise all or any part of the sum of Fifty thousand Pounds in the said Act mentioned, and all or any part of the sum of One hundred and sixty-one thousand Pounds, residue of the sum of Two hundred thousand Pounds in the said Act mentioned, and also all other monies which the said Commissioners may from time to time be authorized to raise under the powers of the said recited Act or of this Act, or any part of the same respectively, by selling and granting perpetual annuities or
 30 annuities for any life or lives, or for any term or terms of years, absolute or determinable on any life or lives, on such terms as to the said Commissioners shall appear reasonable; and all such annuities shall be charged and chargeable upon and payable out of such funds respectively as the interest of the monies authorized to be raised by the said recited Act are by the said recited Act or this Act charged or made payable out of;
 35 and the grants of such annuities shall be in such form and such annuities shall be payable and assignable in such manner as the said Commissioners shall think fit: Provided always, That in every grant of any perpetual annuity, or of any annuity for any term absolute exceeding *Forty*
 40 *Years*, or for more than one life, or for any term determinable on the decease of more than one person, under the authority of this Act, shall be inserted an agreement or proviso that such annuity shall be redeemable or re-purchaseable by the said Commissioners; and it shall and may be lawful for the said Commissioners from time to time to re-purchase and redeem all or any of the redeemable annuities hereby authorized to be

2.
Power to raise Money by way of Annuities.

granted, with the monies accruing from such funds respectively as shall be chargeable with such annuities respectively, or (as often as it shall appear to them that the charge created by such annuities can be reduced) with money borrowed and taken up by all or any of the means by the said recited Act or this Act authorized; which money the said Commissioners are hereby authorized to borrow and take up accordingly. 5

3.
Com-
mis-
sioners to
apply Money
raised from
either Fund
convertibly,
keeping sepa-
rate Accounts.

And be it Enacted, That it shall be lawful for the said Commissioners to apply all or any of the Money which now is or shall from time to time be in the hands of their Treasurers, to the payment of the Interest on the said South Australia Public Lands Securities, and on the said South Australia Colonial Revenue Securities respectively, and of the Annuities by this Act authorized to be granted, and to the paying or defraying any expenses incurred in carrying the said recited Act and this Act into execution, or in applying for and obtaining the said recited Act and this Act, although such Money should not form any part of or have arisen from the revenue or fund charged primarily or exclusively with the payment or the interest or expenses to which it shall be so applied: Provided always, That in every case in which any Money advanced out of the Monies borrowed on the said South Australia Colonial Revenue Securities, or derived from the revenue of the said Province, shall be applied in aid of the Emigration Fund, the Money so advanced shall be a debt due from the said Emigration Fund to the said Province; and in case any part of the said Emigration Fund shall be applied in aid of the revenues of the said Province, the Monies so advanced shall be a colonial debt, owing by the said Province to the said Commissioners, on account of the said Emigration Fund, and distinct accounts of all such advances shall be kept in the books under the direction of the said Commissioners; and such advances respectively shall be repaid or replaced as soon as conveniently may be (but without interest thereon in the meantime), by the said Commissioners, out of the Monies accruing to the fund debited with such advance; and when any Money advanced from either of the said Funds, in aid of the other of them, shall be required for the purpose of the Fund from which the advance shall be made, the said Commissioners shall and may borrow and take up at interest, or raise, in addition to the Monies which they are authorized to borrow by the said recited Act, Money for repaying such advance by all or any of the means by this Act or the said recited Act authorized; and the Securities on which such Monies shall be so raised shall bear such names, and shall be charged upon and payable out of such funds respectively, as the same would have been charged upon and payable out of, if such Securities had been made under the powers of the said recited Act or this Act, or for the use of the Fund debited with the advances so repaid. 10 15 20 25 30 35 40

Power to
raise Money
on the Secu-
rity of the
Revenue to
pay Debts
incurred to
the Emigrant
Fund, and
vice versa.

AND

AND whereas notice was published in the London Gazette, in the month of May One thousand eight hundred and Thirty-five, of the appointment of Commissioners for carrying into effect certain parts of the said recited Act ; but such appointment was not then signed by his

4.
Confirmation
of Acts of
Commissioners.

- 5 Majesty, as required by the said Act ; BE it Enacted, That all contracts, obligations, rules, orders and regulations, matters and things whatsoever entered into, executed, made or done by the Commissioners so named, or any Two of them, or other the Commissioners for the time being, acting under the authority or supposed authority of the
- 10 said recited Act, or in the execution or supposed execution of the powers vested in them by the said Act, and not inconsistent with the provisions of the said recited Act, as explained and extended by this Act, shall have the same force and validity as if the Commissioners had been duly appointed before the respective periods at which such
- 15 contracts, obligations, rules, orders and regulations, matters and things were respectively entered into, executed, made and done.

And be it Enacted, That this Act may be amended or repealed by any Act or Acts to be passed in this present Session of Parliament.

5.
Act may be
altered.

South Australia Act Amendment.

A .

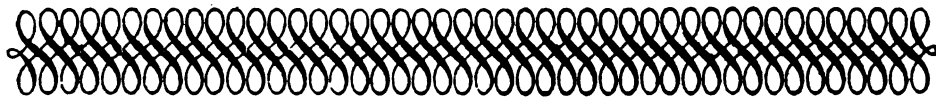
B I L L

To amend an Act of the Fourth and Fifth Years of his late Majesty, empowering his Majesty to erect South Australia into a British Province or Provinces.

(*Prepared and brought in by
Mr. Hutt and Mr. Macdonald.*)

*Ordered, by The House of Commons, to be Printed,
21 June 1838.*

1 August 1838.—2 VICT.



(Ireland.)

A

B I L L

Further to postpone the Repayment of certain Sums advanced
by the Bank of Ireland for the Public Service.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH ~~HEREAS~~ an Act was passed in the first and second years Preamble :
of the reign of his Majesty King GEORGE the Fourth,
intituled, “ An Act to establish an Agreement with the Governor and 1 & 2 G. 4.
Company of the Bank of Ireland, for advancing the Sum of Five c. 72.
5 hundred thousand Pounds Irish Currency, and to empower the said
Governor and Company to enlarge the Capital Stock or Fund of the
said Bank to Three millions : ”

And whereas another Act was passed in the third year of the reign
of his said Majesty King GEORGE the Fourth, intituled, “ An Act to 3 G. 4. c. 26.
10 reduce the Rate of Interest payable on the Sum of One million two
hundred and fifty thousand Pounds advanced by the Governor and
Company of the Bank of Ireland for the Public Service, under an Act
made in the forty-eighth Year of his late Majesty : ”

And whereas the respective Sums of Five hundred thousand Pounds
15 and One million two hundred and fifty thousand Pounds, advanced
by the Governor and Company of the Bank of Ireland for the Public
Service, were by the said Acts directed to be repaid on the First day
of January One thousand eight hundred and thirty-eight :

And whereas the said period was postponed by an Act passed in the
20 last Session of Parliament, intituled, “ An Act to postpone until the 7 W. 4. &
1 Vict. c. 59.
First day of January One thousand eight hundred and Thirty-nine
the Repayment of certain Sums advanced by the Bank of Ireland
for the Public Service : ”

657.

And

And whereas the Governor and Company of the Bank of Ireland have agreed that the time for such Repayment should be further postponed ;

Time for Repayment of certain Sums advanced by the Bank of Ireland postponed.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said respective sums of Five hundred thousand Pounds Irish currency, and One million two hundred and fifty thousand Pounds Irish currency, shall be repaid to the Governor and Company of the Bank of Ireland on the *First day of January One thousand eight hundred and Forty*, instead of the *First day of January One thousand eight hundred and Thirty-nine*, unless such payments shall be made at an earlier period ; and that all powers, provisions, matters and things in the said Acts contained relating to the said sums and to the said day shall extend to the day hereby appointed for the repayment of the said sums, in the same manner as if the *First day of January One thousand eight hundred and Forty* had been originally named in the said recited Acts.

Bank of Ireland Repayment.

(Ireland.)

A

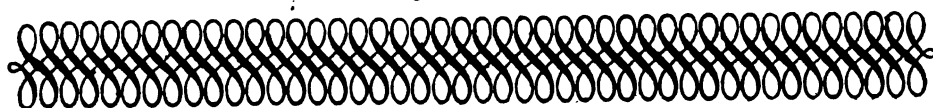
B I L L

Further to postpone the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service.

(Prepared and brought in by
Mr. Chancellor of the Exchequer and
Mr. Robert Stewart.)

Ordered, by The House of Commons, to be Printed,
1 August 1838.

6 February 1838.—1 VICT.



A

B I L L

To make good certain Contracts which have been or may be entered into by certain Banking and Trading Copartnerships.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ divers Associations and Copartnerships, con- Preamble.
sisting of a great number of Members or Shareholders, have
from time to time been formed for the purpose of being engaged in
and carrying on divers Banking or Trading Speculations for gain and
profit, and have accordingly for some time past been and now are
5 engaged in carrying on the same by means of Boards of Directors or
Managers, Committees or other Officers, acting on behalf of all the
Members or Shareholders of such Associations or Copartnerships, and
the Members or Shareholders of such Associations or Copartnerships,
10 not being Managers or Directors, have not taken any active part in
the ordinary management of the said concerns :

And whereas divers Spiritual Persons, having or holding dignities,
prebends, canonries, benefices, stipendiary curacies or lectureships,
have been and are Shareholders in divers of such Associations and
15 Copartnerships, and it has not been commonly known or understood
that the holding of such Shares by such Spiritual Persons was contrary
to law :

And whereas it is expedient to enable all such Associations or
Copartnerships to enforce Contracts heretofore entered into by them,
or which for a limited time may be entered into by them, although
the

the same may now be void by reason of such Spiritual Persons being or having been such Members or Shareholders as aforesaid ;

1. No Contract to be void by reason of Spiritual Persons being Members of Association or Copartnership.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT no Contract heretofore entered into, or which before the *end of the next Session of Parliament* shall be entered into, by any such Association or Copartnership, shall be deemed or taken to be illegal or void, by reason only of any such Spiritual Person as aforesaid being or having been a Member, Partner or Shareholder of or in the same ; but all such Contracts shall and may be enforced in the same manner to all intents and purposes as if no such Spiritual Person had been or was a Member, Partner or Shareholder of or in such Association or Copartnership.

2. In all Actions and Suits, Court to make an Order on Plaintiff for Costs.

And be it further Enacted, That in all actions and suits which shall have been brought or instituted by or on behalf of any such Association or Copartnership before the *passing of this Act*, it shall be lawful for the Court in which the same shall be depending, or any Judge thereof, to make such Order on the Plaintiff for payment to the Defendant or Defendants, or any of them, of all or any part of the costs of such action or suit, at such time and on such terms as to such Court or Judge may seem meet ; and in case default shall be made in payment thereof, then the Defendant or Defendants in any such action or suit shall be entitled to the same benefit of any plea or other defence to any such demand which he or they might have had if this Act had not passed.

3. Act may be repealed this Session.

And be it further Enacted, That this Act may be repealed or altered by any other Act in this present Session of Parliament.

Banking and Trading Copartnerships.

A

B I L L

To make good certain Contracts which have been or may be entered into by certain Banking and Trading Copartnerships.

(Prepared and brought in by
Mr. Chancellor of the Exchequer,
Mr. Attorney General & Mr. Solicitor General.)

Ordered, by The House of Commons, to be Printed,
6 February 1838.

9 February 1838.—1 VICT.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To make good certain Contracts which have been or may be entered into by certain Banking and Trading Copartnerships.

WHEREAS divers Associations and Copartnerships, consisting of more than Six Members or Shareholders, have from time to time been formed for the purpose of being engaged in and carrying on the business of Banking and divers other Trades and Dealings for gain and profit, and have accordingly for some time past been and now are engaged in carrying on the same by means of Boards of Directors or Managers, Committees or other Officers, acting on behalf of all the Members or Shareholders of or persons otherwise interested in such Associations or Copartnerships. Preamble.

5
10
15 And whereas divers Spiritual Persons, having or holding dignities, prebends, canonries, benefices, stipendiary curacies or lectureships, have been and are Members or Shareholders of, or otherwise interested in divers of such Associations and Copartnerships, and it has not been commonly known or understood that the holding of such Shares or interests by such Spiritual Persons was contrary to law; or that Contracts entered into by such Associations or Copartnerships could not be enforced.

And whereas it is expedient to enable all such Associations or Copartnerships to enforce Contracts heretofore entered into by them, or which for a limited time may be entered into by them, although the same may now be void by reason of such Spiritual Persons being

or having been such Members or Shareholders, or otherwise interested as aforesaid ;

1. **No Contract to be void by reason of Spiritual Persons being Members of Association or Copartnership.** **BE it therefore Enacted,** by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT no Contract heretofore entered into, or which before the end of the next Session of Parliament shall be entered into, by any such Association or Copartnership, already formed or hereafter to be formed, shall be deemed or taken to be illegal or void, or to occasion any forfeiture whatsoever, by reason only of any such Spiritual Person as aforesaid being or having been a Member, Partner, Shareholder, Manager or Director of or otherwise interested in the same ; but all such Contracts shall and may be enforced in the same manner to all intents and purposes as if no such Spiritual Person had been or was a Member, Partner, Shareholder, Manager or Director of, or interested in such Association or Copartnership.

2. **In all Actions and Suits, Court to make an Order on Plaintiff for Costs.** And be it further Enacted, That in all actions and suits which shall have been brought or instituted by or on behalf of any such Association or Copartnership, in case any Defendant therein shall before the Sixth day of February One thousand eight hundred and Thirty-eight, by plea or otherwise, have insisted on the invalidity of any contract thereby sought to be enforced, by reason of any such Spiritual Person as aforesaid, being or having been a Member or Shareholder in such Association or Copartnership, such Defendant shall be entitled to the full Costs of such plea or other defence, to be paid by the Plaintiff, and to be taxed as the Court in which the said Action or Suit shall be depending, or any Judge thereof shall direct ; and in order fully to indemnify such Defendant, it shall be lawful for such Court or Judge to order the Plaintiff to pay to him such full costs (if any) of the said Action or Suit as the justice of the case may require.

3. **Act may be repealed this Session.** And be it further Enacted, That this Act may be repealed or altered by any other Act in this present Session of Parliament.

Banking and Trading Copartnerships.

A

B I L L

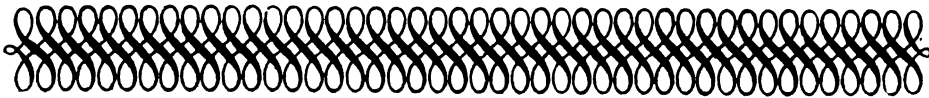
[AS AMENDED BY THE COMMITTEE]

To make good certain Contracts which have
been or may be entered into by certain
Banking and Trading Copartnerships.

(Prepared and brought in by

*Mr. Chancellor of the Exchequer,
Mr. Attorney General & Mr. Solicitor General.)*

*Ordered, by The House of Commons, to be Printed,
9 February 1838.*



A

B I L L

To Diminish the Number of Commissioners and Deputy Registrars of the Court of Bankruptcy, and the Number of Official Assignees in London, to make better Provision for the Security of the Suitors of the said Court, and for the Administration of the Estates of Persons found Bankrupts under Country Commissions and Fiats.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, “An Act to establish a Court of Bankruptcy,” a power was given to his said Majesty, his heirs and successors, to establish a Court of Bankruptcy, and by Commission under the Great Seal to appoint a Chief Judge, Three other Judges, and Six Commissioners of the said Court; and by the Royal Sign Manual to appoint Two Registrars and Eight Deputy Registrars of the said Court; and by the said Act it was enacted, that a number of Persons, not exceeding Thirty, qualified as therein mentioned, should be chosen by the Lord Chancellor to act as Official Assignees in all Bankruptcies prosecuted in the said Court : Preamble.

And whereas under the powers contained in the said Act the said Court was duly constituted, and the Judges, Commissioners, Registrars and Deputy Registrars thereof were duly appointed; and Eighteen Persons have been duly chosen by the Lord Chancellor to act as Official Assignees according to the said Act :

And whereas the said Judges and Commissioners have investigated the Proceedings under numerous Commissions issued against Persons found Bankrupt prior to the Establishment of the said Court, and have caused the Assets of such Bankrupts to a very considerable amount to be distributed thereunder amongst their Creditors : 5

And whereas by virtue of an Act passed in the Session of Parliament holden in the fifth and sixth years of the reign of his said late Majesty, intituled, " An Act for investing in Government Securities a further Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts' Estates, and applying the Interest thereon in discharge of the Expenses of the Court of Bankruptcy, and for the further Relief of the Suitors in the said Court," the number of Judges in the said Court, other than the Chief Judge thereof, has been reduced to Two, and the number of Deputy Registrars has been reduced to Seven : 10 15

And whereas the Proceedings under the said Commissions have been for the most part brought to a close, and the Commissions and Fiats now in a course of prosecution in the said Court, and the Fiats to be hereafter issued by virtue of the said Act, and to be prosecuted in the said Court, may be worked by a diminished number of Commissioners and Deputy Registrars acting in London ; 20

1. Vacancies in Commissioners of Bankruptcy and Registrars not to be supplied.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT when any vacancy shall occur amongst the said Commissioners acting in London, the same vacancy shall not be supplied until the number of such Commissioners shall be reduced, so that there may hereafter be only *Four* such Commissioners ; and when any Vacancy shall occur amongst the Deputy Registrars acting under the said Commissioners, such vacancy shall not be supplied until the number of such Deputy Registrars shall be reduced, so that there may hereafter be only *Four* such Deputy Registrars. 25 30

2. Number of Official Assignees reduced.

AND whereas experience has proved that the business of the Official Assignees acting in the Bankruptcies prosecuted in the said Court may be effectually performed by *Twelve* such Assignees ; BE it therefore Enacted, That as vacancies may occur amongst the Official Assignees appointed under the first hereinbefore recited Act to act in London, such vacancies shall not be supplied until the number shall be reduced, so that hereafter there may be only *Twelve* such Official Assignees acting in London. 35

AND

3.
Clerk to Ac-
countant.

AND whereas by the said secondly hereinbefore recited Act it was enacted, that it should be lawful for the said Lord Chancellor to appoint additional Clerks to the Accountant in Bankruptcy, with proper salaries, but so that the payment in any one year for

5 Salaries of Clerks and expenses of the Office of the said Accountant in Bankruptcy should not exceed One thousand Pounds : AND whereas by a new mode of keeping the accounts in the said Office and at the Bank of England a great saving of labour at the Bank of England has been effected, so as to justify a large invest-

10 ment of the unemployed cash belonging to Bankrupts' estates, and accordingly a considerable portion of such cash has been invested pursuant to the provisions of the secondly hereinbefore recited Act in the purchase of Three Pounds per Centum Bank Annuities, which are now standing in the name of the Accountant in Bank-

15 ruptcy to the account intituled, " The Bankruptcy Fund Account : " AND whereas by such new mode of keeping the accounts in the Office of the Accountant in Bankruptcy, the labour of the Clerks in the said Office has been considerably increased, and it is more-

20 over expedient that duplicate books of account of all the transactions in the said Office should be kept in order, thereby to afford a more complete security for the accuracy of the accounts, and for the protection of the Suitors of the said Court in the event of accidents by fire or otherwise ; BE it therefore Enacted, That it shall be lawful for the Lord High Chancellor to appoint one or

25 more additional Clerk or Clerks to the said Accountant, and to direct the payment of such salary and salaries to all or any of the Clerks of the said Accountant as to the Lord Chancellor shall seem fit, and that such salaries shall be paid out of such funds and in such manner as in the said secondly hereinbefore recited Act is

30 provided for the salaries thereby authorized, provided that the payment to be made for salaries and expenses of the said Office of Accountant, over and besides the salary of the said Accountant, shall not exceed in any one year the sum of One thousand six hundred Pounds.

35 And be it Enacted, That the surplus monies which may hereafter become due and be received for fees set forth in the First and Second Schedules to the said first hereinbefore recited Act, after satisfying the salaries and expenses by the said Act authorized to be paid thereout, shall not be retained and applied as in the afore-

40 said Act is mentioned, but shall be paid once in every month into the Bank of England to the credit of the Accountant in Bankruptcy to the Account intituled, " The Secretary of Bankrupts' Accountt."

4.
Surplus Fees
to be paid to
account of
Secretary of
Bankrupts.

5.
Special Com-
missioner for
inquiring into
Country
Commissions.

AND whereas complaints have been made that property to a considerable amount belonging to persons found Bankrupt under Commissions or Fiats directed to Commissioners in the country has not been duly collected and administered, and it is expedient that provision should be made for ascertaining the truth of such allega- 5 tions, and for remedying the evil complained of where the same may exist; BE it therefore Enacted, That it shall be lawful for the Lord Chancellor, by commission under the Great Seal, from time to time to appoint any person, being or duly qualified to be a Commissioner of the Court of Bankruptcy, to be a Special Com- 10 missioner for inquiring into the state of the proceedings under Commissions and Fiats in Bankruptcy now depending, and which were issued previously to the year *One thousand eight hundred and Thirty-eight*, and were directed to Commissioners in the country within any district the limits whereof shall be defined in such Com- 15 mission; and every Special Commissioner so appointed shall, subject to such directions as may from time to time be given to him in that behalf by the Lord Chancellor, investigate and ascertain as to every such Bankruptcy what sum has been collected on account of the estate of the Bankrupt in every such Bankruptcy, and how the 20 same and every part thereof has been applied, and whether any and what part of such estate remains uncollected or unapplied, and in whose hands the same has from time to time been and now is placed; and shall from time to time report to the Lord Chancellor the result of every such inquiry in such manner as the Lord 25 Chancellor shall from time to time direct: Provided always, That only Two such Commissions shall be depending at the same time, and only One such Commission shall be in force at the same time in any one such district.

6.
Registrar to
Special Com-
missioner.

And be it Enacted, That it shall be lawful for the Lord Chan- 30 cellor to appoint one competent person to be the Registrar to each such Special Commissioner; and such Registrar shall attend upon and assist such Special Commissioner in the discharge of the duties imposed upon him by this Act, in such manner as such Special Commissioner shall direct. 35

7.
Tenure of
Appointment.

And be it Enacted, That every such Special Commissioner, and every such Registrar, shall hold his appointment during pleasure only.

8.
Powers.

And be it Enacted, That every Special Commissioner so appointed shall, for enabling him fully to execute the duties to be imposed 40 upon him by any such Commission, have all the powers of compelling the attendance of Bankrupts, Assignees, Solicitors, and

and all other persons whomsoever, and of examining them on their oaths; and all powers of committal, and other powers, which are possessed by the major part of the Commissioners to whom any such Commission or Fiat may have been directed, or which would
 5 have been possessed by them in case they were now in existence, and such Commission or Fiat were in a course of prosecution.

And be it Enacted, That the Lord Chancellor shall from time to time name any number of persons, not exceeding *Six* in the whole, for each such district, being or having been merchants,
 10 brokers or accountants engaged in trade in the United Kingdom, and being resident within such district, to act as Official Assignees in all Bankruptcies prosecuted by virtue of Commissions or Fiats directed to the Commissioners within such district in which it may be deemed expedient to appoint an Official Assignee under the
 15 powers hereinafter contained.

9.
Official As-
signees.

And be it further Enacted, That it shall be lawful for such Special Commissioner, whenever it shall appear to him expedient so to do, to appoint any one of such persons so named by the Lord Chancellor, to be the Official Assignee of the estate and
 20 effects of any Bankrupt, the proceedings in whose Bankruptcy shall be so investigated by such Special Commissioner, either jointly with the existing Assignee or Assignees (if any), or solely as occasion may require, and to order the existing Assignee or Assignees (if any) to pay and deliver over to such Official Assignee all
 25 money, books, papers and effects whatever in his or their possession, custody or power, as such Assignee or Assignees; and immediately on such appointment, all the real and personal estate of such Bankrupt shall vest in such Official Assignee jointly with the other Assignee or Assignees (if any), or solely, as the case may require,
 30 in like manner as by the first hereinbefore recited Act is provided as to Official Assignees appointed under the powers therein contained, but nevertheless without prejudice to any action or suit commenced by or against, or any contract entered into by the existing Assignee or Assignees before the passing of this Act.

10.
To be joined
with existing
Assignee.

And be it Enacted, That every Official Assignee of any Bankrupt's Estate, appointed under the provisions of this Act, shall have all the same rights, powers, privileges and exemptions as are possessed by Official Assignees appointed under the first hereinbefore recited Act, and shall be entitled to be paid out of the Bankrupt's
 35 Estate, by way of remuneration for his services, such sum of money as to the major part of the Commissioners named in and acting under the Commission or Fiat in prosecution against such Bankrupt may seem just and reasonable, having regard to the amount
 40

11.
Official As-
signee in-
vested with
same Powers,
&c. as Official
Assignees
under former
Act.

of the Bankrupt's property ; and the nature of the duties to be performed by such Official Assignee, subject nevertheless to such general or special orders in relation thereto as may from time to time be made by the Court of Review in that behalf.

12.
Allowances to
Commissioners.

And be it Enacted, That there shall be paid to every Special Commissioner and every Registrar acting under the powers of this Act, for the period during which he shall so act, the sums of money hereinafter mentioned, (that is to say) to every such Special Commissioner, not being a Commissioner of the Court of Bankruptcy, such sum as to the Lord Chancellor shall seem fit, not exceeding the sum of *Twelve hundred Pounds* in any one year ; and to every Commissioner of the Court of Bankruptcy such sum as to the Lord Chancellor shall seem fit, not exceeding the sum of *Five hundred Pounds* in any one year, in addition to his salary as such Commissioner of the Court of Bankruptcy ; to every Registrar, not being a Registrar, or Deputy Registrar, of the Court of Bankruptcy, such sum as to the Lord Chancellor shall seem fit, not exceeding the sum of *Five hundred Pounds* in any one year ; and to every Registrar, or Deputy Registrar, of the Court of Bankruptcy such sum as to the Lord Chancellor shall seem fit, not exceeding the sum of *Two hundred Pounds* in any one year, in addition to his salary as such Registrar, or Deputy Registrar, of the Court of Bankruptcy.

13.
Expenses to
be paid.

And be it Enacted, That, in addition to the said salaries, there shall be paid to every such Commissioner and Registrar his reasonable travelling and other expenses incurred while acting under this Act, the amount thereof to be settled in such manner as the Lord Chancellor shall direct.

14.
Fees to be
received by
Registrars.

And be it Enacted, That there shall be paid out of the estate of every Bankrupt the sum of *Five Pounds* for every meeting, or adjourned meeting, in the affairs of such Bankrupt held by any Commissioner acting under this Act, pursuant to any summons issued by him for that purpose, which sum shall be received by the Registrar acting under such Commissioner from the Official or other Assignee or Assignees of such estate, and be by him paid into the Bank of England in the name of the said Accountant in Bankruptcy to the credit of the said account, intituled, "The Secretary of Bankrupts' Account."

15.
How Salaries
and Expenses
to be paid.

And be it Enacted, That it shall be lawful for the Lord Chancellor to order that all sums payable to any such Commissioner or Registrar for salaries or expenses aforesaid, shall be paid out of the

the monies in the Bank of England now or hereafter to be standing in the name of the Accountant in Bankruptcy to the account intituled, "The Secretary of Bankrupts' Account."

And be it Enacted, That this Act may be repealed or altered by any Act to be passed in this present Session of Parliament.

16.
Act may be
altered.

Bankruptcy Court.

A

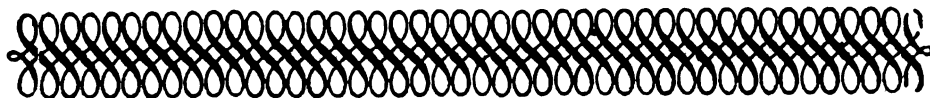
B I L L

To Diminish the Number of Commissioners and Deputy Registrars of the Court of Bankruptcy, and the Number of Official Assignees in London, to make better Provision for the Security of the Suitors of the said Court, and for the Administration of the Estates of Persons found Bankrupts under Country Commissions and Fiats.

(Prepared and brought in by
Mr. Attorney General & Mr. Solicitor General.)

*Ordered, by The House of Commons, to be Printed,
13 June 1838.*

7 April 1838.—1 VICT.



A

B I L L

To amend the Law of Scotland in matters relating to
Personal Diligence, Arrestments and Poindings.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

W~~H~~**HEREAS** it is expedient to improve the form and to diminish
the expense of the Diligence of the law in Scotland against
the Persons of Debtors, and to amend the law as to the Diligence of
Arrestment and Poinding, ~~BE it therefore Enacted~~, by The QUEEN's
5 most Excellent MAJESTY, by and with the Advice and Consent of the
Lords Spiritual and Temporal, and Commons, in this present Parlia-
ment assembled, and by Authority of the same, THAT on and
after the *First day of October, One thousand eight hundred and Thirty-*
8 *eight*, where an Extract shall be issued of a Decree or Act pronounced,
10 or to be pronounced, by the Court of Session, or by the Court of Com-
mission for Tiends, or by the Court of Justiciary, or of a Decree
proceeding upon any Deed, Decree-arbitral, Bond, Protest of a Bill,
Promissory Note, or Banker's Note, or upon any other obligation or
document on which Execution may competently proceed, recorded in
15 the Books of Council and Session, or of the Court of Justiciary, the
Extractor shall in terms of the Schedule (Number 4) hereunto
annexed (or as near to the form thereof as circumstances will permit),
insert a Warrant to charge the Debtor or Obligant to pay the debt, or
perform the obligation within the days of charge, under the pain of
20 poinding and imprisonment, and to arrest and poind, and for that
purpose to open shut and lockfast places, which Extract shall be sub-
scribed and prepared in other respects as Extracts are at present sub-
scribed and prepared, and for which Extract no higher fees shall be
exigible than those which are payable as by law established.

Preamble :
Diligence.

I.
Extracts of
Court of Ses-
sion, Teind
Court and
Court of Jus-
ticiary
Decrees, to
contain War-
rant to arrest,
charge and
poind.

289.

A

And

2.
Competent to
arrest.

And be it Enacted, That it shall be lawful, by virtue of such Extract, to arrest in like manner, as if Letters of Arrestment on liquid grounds of debt, or Letters of Horning containing Warrant to arrest, had been issued under the Signet.

3.
Competent to
charge.

And be it Enacted, That it shall be lawful by virtue of such Extract, to charge the Debtor or Obligant therein mentioned to pay the sums of money, or to perform the obligation therein specified, within the days of charge, from and after the date of charge, under the pain of poiding and imprisonment; and the Officer executing the same shall return an Execution in terms of the Schedule (Number 2.) hereunto annexed, or as near to the form thereof as circumstances will permit.

5

- Officer's
Execution.

4.
Competent to
poid.

And be it Enacted, That on the expiration of the days of charge, it shall be lawful, by virtue of such Extract, to poid the movable effects of the Debtor, in payment of the sums of money therein mentioned, as if Letters of Poiding or Letters of Horning, containing Warrant to poid, had been issued, and for that purpose to open shut and lockfast places.

15

5.
Execution to
be registered;

And be it Enacted, That it shall be competent at any time within Year and Day after a charge has expired, to present such Extract and Execution of charge to the Keeper of the General Register of Hornings at Edinburgh, and the Keeper shall thereupon record the Execution in that register, and state therein the name and designation of the person by whom the Extract and Execution were presented, and also the date of presentation; which registration shall have the same effect as if the Debtor or Obligant had been denounced rebel in virtue of Letters of Horning, and the said Letters, with the Executions of charge and denunciation, had been recorded according to the forms now in use, and shall have the effect to accumulate the debt and interest into a capital sum, whereon interest shall thereafter become due.

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- and to have
the effect of
Denunciation
and to accumu-
late interest.

6.
Extract and
Execution
with Certifi-
cate of Regis-
tration to be
presented in
the Bill-
Chamber for
Warrant to
imprison.

And be it Enacted, That on the Execution being so recorded, the Keeper of the Register shall write upon the Extract and upon the Execution (if it be written on paper apart) a Certificate of the Registration thereof, in terms or to the effect of the Schedule (Number 3.) hereunto annexed, which he shall date and subscribe; and if Warrant to imprison be required, a Writer to the Signet shall indorse and subscribe on the Extract a Minute to the effect of the Schedule (Number 4.) hereunto annexed (or as near to that form as circumstances will permit); and the Extract, with the Execution and Certificate of Registration, and indorsed Minute, shall be presented in the Bill-Chamber of the Court of Session; and the Clerk thereof shall, if there be no cause to the contrary, write on the Extract this Deliverance, "Fiat ut petitur," and shall

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40

shall date and subscribe the same ; and it shall be lawful, by virtue of the said Extract and Deliverance, to search for, take, apprehend and imprison the Debtor or Obligant, and if necessary for that purpose, to open shut and lockfast places ; and Magistrates and Keepers of Prisons are hereby authorized and required to receive into and detain in prison the person of the Debtor or Obligant, till liberated in due course of law, in like manner as if Letters of Caption had been issued under the Signet.

And be it Enacted, That where any Person shall acquire right to an Extract of a Decree or Act as aforesaid, it shall be competent to him to present in the Bill-Chamber the Extract, with the Execution of charge (if a charge shall have been given), and Certificate of registration (if the same shall have been registered) and a Minute indorsed thereon, in the form of the Schedule (Number 5.) hereunto annexed (or as near thereto as circumstances will permit), subscribed by a Writer to the Signet, with the assignation, confirmation or other legal evidence of such acquired right, praying for authority (as the case may be) to arrest, charge, poind the effects of or (as the case may be) to imprison the said Debtor or Obligant, and open shut and lockfast places ; and the Clerk shall, if there be no lawful cause to the contrary, write on the Extract this Deliverance, " Fiat ut petitur," and he shall date and subscribe the same, and indorse the same date on the documents produced, and subscribe with his initials the date so indorsed ; and the Extract with such Deliverance shall be a Warrant to arrest, charge, poind and open shut and lockfast places, or (as the case may be) to search for, take, apprehend and imprison as aforesaid, at the instance of such Person.

7.
Execution at the instance of a Person acquiring right to Extract

And be it Enacted, That nothing herein contained shall prevent any person from obtaining Extracts, and also Letters of Horning, Poinding and Arrestment, or Letters of Arrestment and Letters of Caption, according to the former law and practice, if he shall see fit to proceed in that way in place of in the manner hereby provided ; but it is hereby declared, that in such case no part of the Expenses thereof, except the Expenses of the Extract, shall be exigible from the Debtor or Obligant or his estate, unless it be shown that it is incompetent to proceed in the way herein provided ; and where an Extract has been issued before the said First day of October, it shall be competent for the person in whose favour such Extract has been issued, or the person having right thereto, to obtain an Extract in terms of this Act, or a Warrant subjoined to the former Extract, in terms of the said Schedule (Number 1.) and to prosecute Diligence thereon agreeably to the provisions hereof.

8.
Letters of Horning may be issued as formerly, but no expenses exigible.

Extracts in terms of this Act may be obtained where Extracts issued prior to 1st October 1837.

9.
Extracts of
Sheriff's De-
crees, &c. to
contain War-
rant to arrest,
charge, poind,
and open shut
and lockfast
places.

And be it Enacted, That on and after the said *First Day of October*, where an Extract shall be issued of any Decree or Act pronounced or to be pronounced by any Sheriff, or of a Decree proceeding upon any Deed, Decree-arbitral, Bond, Protest of a Bill, Promissory Note or Banker's Note, or upon any other obligation or document on which Execution may competently proceed, recorded in the Sheriff Court Books, the Extractor shall, in terms of the Schedule (Number 6.) hereunto annexed (or as near thereto as circumstances will permit), insert therein a Warrant to charge the Debtor or Obligant to pay the debt or perform the obligation within the days of charge, under the pain of poinding and imprisonment, and to arrest and poind according to the present practice, and for that purpose, if need be, to open shut and lockfast places, which Extract shall be subscribed and prepared in other respects as Extracts are at present subscribed and prepared, and for which Extracts no higher fees shall be exigible than those which are payable as by law established; and where an Extract has been issued from the books of the Sheriff before the said *First Day of October*, it shall be competent for the person in whose favour such Extract has been issued, or the person having right thereto, to obtain an Extract, in terms of this Act, or a Warrant subjoined to the former Extract in terms of the said Schedule (Number 6.) and to prosecute Diligence thereon agreeably to the provisions hereof.

10.
Execution to
be registered,
and to accu-
mulate in-
terest.

And be it Enacted, That it shall be lawful by virtue of such Extract to charge the Debtor or Obligant therein mentioned to pay the sums of money, or to perform the obligation therein specified, within the days of charge, under pain of poinding and imprisonment; and the Officer executing the same shall return an Execution in terms of the said Schedule (Number 2.), or as near to the form thereof as circumstances will permit; and it shall be competent at any time within *Year and Day* after a charge has expired, to present the Extract and Execution of charge to the Clerk of the Sheriff Court from which the Extract has been issued, who shall thereupon record the Execution in the Register of Hornings kept by him, and state therein the name and designation of the person by whom the Extract and Execution were presented, and the date of presentation, which registration shall have the same effect as if the Debtor or Obligant had been denounced rebel, in virtue of Letters of Horning, and the said Letters with the Executions of charge and denunciation had been recorded according to the forms now in use, and shall have the effect to accumulate the debt and interest into a capital sum, whereon interest shall thereafter become due.

11.
Extract and
Execution
with Certifi-
cate of Regis-

And be it Enacted, That on the Execution being so recorded, the Sheriff-clerk shall write upon the Extract and upon the Execution, (if it be written on paper apart) a Certificate of the Registration thereof, which

which he shall date and subscribe in terms of the Schedule (Number 7.) hereunto annexed, (or as near thereto as circumstances will permit) ; and if Warrant to imprison be desired, the Creditor or a Procurator of Court shall indorse and subscribe on the said Extract a Minute in the terms of the Schedule (Number 8.) hereunto annexed (or as near to that form as circumstances will permit) ; and the said Clerk shall, if there be no lawful cause to the contrary, write on the Extract this Deliverance, " Fiat ut petitur," and shall date and subscribe the same ; and it shall be lawful, by virtue of the said Extract and Deliverance, to search for, take, apprehend, imprison, and if necessary for that purpose, to open shut and lockfast places as aforesaid ; and Magistrates and Keepers of Prisons are hereby authorized and required to receive into and detain in prison the person of the Debtor or Obligant, till liberated in due course of law in like manner as if Letters of Caption had been issued under the Signet.

tration to be presented in Sheriff Court, for Warrant to imprison.

And be it Enacted, That where any Person has acquired right to an Extract of a Decree or Act of the Sheriff he may present to the Sheriff-Clerk the Extract, with the Execution of charge (if a charge shall have been given), and Certificate of registration (if the same shall have been registered) and a Minute indorsed on the Extract in the form of the Schedule (Number 9.) hereunto annexed (or as near thereto as circumstances will permit), subscribed by him or a Procurator of Court, with the assignation, confirmation or other legal evidence of the acquired right, praying for authority (as the case may be) to arrest, charge, poind the effects of, or (as the case may be) to imprison the said Debtor or Obligant, and open shut and lockfast places ; and the Clerk shall, if there be no lawful cause to the contrary, write on the Extract this Deliverance, " Fiat ut petitur," and he shall date and subscribe the same, and indorse the same date on the documents produced, and subscribe with his initials the date so indorsed ; and the Extract, with such Deliverance, shall be a Warrant to arrest, charge, poind, and open shut and lockfast places, or (as the case may be) to search for, take, apprehend and imprison as aforesaid, at the instance of such Person.

12.
Execution at the instance of a Person acquiring right to the Extract.

And be it Enacted, That where a Debtor or Obligant is, or his movables are, within the territory of any other Sheriff than the Sheriff from whose Books such Extract shall be lawfully issued, it shall be competent to present the Extract in the Bill-Chamber of the Court of Session, or in the Court of the Sheriff within whose jurisdiction the Debtor or Obligant is, or his movables are, with a subscribed Minute indorsed thereon, in terms of the Schedule (Number 10) hereunto annexed (or as near thereto as circumstances will permit), praying for the authority and concurrence of the Lords of Council and Session, or of the said Sheriff (as the case may be), to arrest, charge and poind the movables of the said Debtor or Obligant, and to open shut and lock-

13.
Warrant of concurrence to charge, arrest and poind.

fast places, all in terms of the Warrant in the said Extract; and if there be no lawful cause to the contrary, the Clerk in the Bill-Chamber or the Sheriff-clerk (as the case may be) shall grant authority accordingly, by writing this Deliverance, "Fiat ut petitur," and dating and subscribing the same; and it shall thereupon be lawful to arrest, charge, poind and open shut and lockfast places in the same manner as if the said Extract had been originally issued from the Books of the Court of Session or concurring Sheriff. 5

14.
Warrant by
concurring
Sheriff Clerk
to imprison.

And be it Enacted, That where the Debtor or Obligant shall have been charged on a Warrant of concurrence, and the Execution recorded in the Books of the concurring Court, the Extract and Execution, with the Certificate of registration, and a Minute, in terms of the said Schedule (Number 4.) hereunto annexed (or as near thereto as circumstances will permit), indorsed thereon, may be presented either in the Bill-Chamber, subscribed by a Writer to the Signet, or in the Court of the concurring Sheriff, subscribed by a Procurator of Court, praying for authority to imprison as aforesaid; and if there be no lawful cause to the contrary, the Bill-Chamber Clerk or Sheriff-clerk (as the case may be) shall grant authority accordingly by writing thereon this Deliverance, "Fiat ut petitur," dating and subscribing the same; and it shall thereupon be lawful to open shut and lockfast places, search for, take, apprehend and imprison in manner hereinbefore provided. 10 15 20

15.
Concurrence
to Warrant of
Imprisonment
granted in
another Sheriff
Court.

And be it Enacted, That where a Warrant to imprison has been granted by any Sheriff in manner hereinbefore provided, and where the Debtor or Obligant is within the territory of another Sheriff, such Warrant may be presented, along with the Extract, Execution of charge and Certificate of registration, either in the Bill-Chamber or in such other Sheriff Court, and a Minute in terms or to the effect of the said Schedule (Number 10.), praying for the authority and concurrence of the Lords of Council and Session or of the said Sheriff Court for executing the said Warrant; and if there be no lawful cause to the contrary, the Clerk in the Bill-Chamber, or the Sheriff-clerk (as the case may be) shall grant authority accordingly by writing this Deliverance, "Fiat ut petitur," and dating and subscribing the same; and it shall thereupon be lawful to open shut and lockfast places, search for, take, apprehend and imprison in the same manner as if the said Warrant had been originally granted by the Court of Session or the concurring Sheriff. 25 30 35

ARRESTMENTS.

16.
Warrant to
arrest may be
introduced
into Sum-
monses before
the Court of
Session.

And be it Enacted, That on and after the said First day of October, it shall be lawful to insert in Summonses raised before the Lords of Council and Session, concluding for payment of money, a Warrant (or Will) to arrest the movables, debts and money belonging or owing to the Defender until caution be found acted in the Books of Council and 40

and Session, that the same shall be made forthcoming as accords of law; and it shall be lawful to Writers to the Signet to subscribe, and to the Keeper thereof and his Deputes to affix the Signet to such Summonses, without any other authority than this Act.

- 5 And be it Enacted, That by virtue of such Warrant of Arrestment, it shall be competent, before executing the Warrant of Citation, to arrest the movables, debts and money belonging or owing to the De-
fender until caution be found as aforesaid; and such Arrestment shall be effectual, provided the Warrant of Citation shall be executed against
10 the Defender within Twenty Days after the date of the Execution of the Arrestment, and the Summons called in Court within Twenty Days after the Diet of Compearance; or where the Diet of Compearance falls within the vacation, provided the Summons be called on the first calling day next after the said Diet of Compearance; and if the
15 Warrant of Citation shall not be executed, and the Summons called in manner above directed, the Arrestment shall be null, without prejudice to the validity of any subsequent Arrestment duly executed in virtue of the said Warrant.

17.
Arrestment may be executed before executing the Summons, but the Summons must be executed and called within a limited period.

- And be it Enacted, That on and after the said First Day of October,
20 it shall not be competent to execute any Arrestment, as in the hands of a Person furth of Scotland, by service at the market-cross of Edinburgh, and pier and shore of Leith, but such Arrestment shall be executed by delivery of a Schedule of Arrestment at the Record Office of Citations in the Court of Session, which delivery shall be made, and
25 the Schedule registered and published in the same manner as charges are directed to be registered and published by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland."

18.
Arrestments against Persons furth of the Kingdom, to be executed at the Record Office.

- 30 And be it Enacted, That on and after the said First Day of October, a Warrant or Precept of Arrestment granted by any Sheriff in Scotland, whether contained in a libelled Summons or proceeding upon a depending Action or liquid document of debt, may lawfully be executed within the territory of any other Sheriff, the same being first indorsed
35 by the Sheriff-clerk of such Sheriffdom, who is hereby required to make and date such indorsation.

19.
Sheriffs' Precepts of Arrestment to be executed within jurisdiction of other Sheriffs.

- And be it Enacted, That on and after the said First Day of October it shall be competent to the Lord Ordinary in the Court of Session before whom any Summons containing Warrant of Arrestment shall be
40 enrolled as Judge therein, or before whom any Action on the dependence whereof Letters of Arrestment have been executed, has been or shall be enrolled as Judge therein, and to the Lord Ordinary on

20.
Lord Ordinary in the Outer-house may recall or restrict Arrestments subject to review.

the Bills in time of vacation, on the application of the Debtor or Defender by Petition duly intimated to the Creditor or Pursuer, to which answers may be ordered to recall, or to restrict such Arrestment, on caution or without caution, and dispose of the question of Expenses, as shall appear just: Provided, That his Deliverance shall be subject to the review of the Inner-house, by a Reclaiming Note duly lodged within Ten Days from the date of the said Order. 5

21.
Sheriff may recall or restrict Arrestments, subject to Review.

And be it Enacted, That on and after the said First Day of October it shall be competent for any Sheriff from whose Books a Warrant of Arrestment has been issued, on the Petition of the Debtor or Defender duly intimated to the Creditor or Pursuer, to recall or to restrict such Arrestment, on caution or without caution, as to the Sheriff shall appear just: Provided, That the Sheriff shall allow Answers to be given in to the said Petition, and shall proceed with the further disposal of the cause in the same manner as in summary causes and his Judgment shall be subject to review in the Court of Session. 10 15

22.
Arrestments to prescribe in Three Years.

And be it Enacted, That an Act of the Parliament of Scotland passed in the year One thousand six hundred and sixty-nine, concerning Prescriptions, shall be and is hereby repealed in so far as regards the period of Prescription of Arrestments, and all Arrestments shall hereafter prescribe in Three Years instead of Five; and Arrestments which shall be used upon a future or contingent Debt shall prescribe in Three Years from the time when the Debt shall become due, and the contingency be purified, but saving and reserving from the operation hereof all Arrestments already used where the ground of Arrestment is not an Action in dependence at the date of passing this Act. 20 25

23.
Compearing Creditors to be conjoined, and poinded Effects to be valued.

And be it Enacted, That on and after the said First Day of October, where an Officer of the law shall proceed to poind movable Effects, he shall, if required, before the poinding is completed, conjoin in the poinding any Creditor of the Debtor who shall exhibit and deliver to him a Warrant to poind; and on the Effects being poinded, the Officer shall cause them to be valued by Two Valutors, and one valuation by them shall be sufficient. 30

24.
Effects to be left with, and Schedule given to, the Possessor.

And be it Enacted, That the Officer shall leave the poinded effects with the person in whose possession they were when poinded; and he shall deliver to the Possessor a Schedule specifying the poinded effects, and at whose instance they were poinded, and the value thereof. 35

25.
Officer to report Poinding within Eight Days.

And be it Enacted, That the Officer shall within Eight Days after the day on which the Poinding was executed (unless cause shall be shown why the same could not be done within the period of Eight Days), report the Execution thereof to the Sheriff, in which Execution he

he shall specify the diligence under which the Poining is executed, the amount of the debt, the names and designations of the Debtor and of the Creditor at whose instance the effects were poinded, the effects poinded, the value thereof, the names and designations of the Valuators, the person in whose hands they were left, and the delivery of the Schedule as aforesaid ; which Execution shall be subscribed by him and by the Two Valuators, who shall also be witnesses to the poining, without the necessity of other witnesses.

And be it Enacted, That on the Execution being reported, the Sheriff shall, if necessary, give orders for the security of the movables, and if they be of a perishable nature, for the immediate disposal thereof, under such precautions as to him shall seem fit ; and if not so disposed of, and if no lawful cause be shown to the contrary, he shall, if required, grant Warrant to sell them by Public Roup, at such time and at such place, with such public Notice of the Sale as may appear to the Sheriff most expedient for all concerned, and at the sight of a Judge of the Roup to be named by the Sheriff: Provided, That (excepting in the case of perishable effects) the Sale shall not take place sooner than Eight Days, nor at a longer period than Twenty Days after the date of the publication of the said Notice of Sale ; and the Sheriff shall order a copy of the Warrant of Sale to be served on the Debtor, and on the Possessor of the poinded effects, if he be a different person from the Debtor, at least Six Days before the date of the Sale.

26.
Sale to be
advertised,
and Notice to
the Debtor.

And be it Enacted, That the poinded movables shall be offered for sale as ordered, at upset prices not less than the appraised values thereof ; but if no Offerer appear, the effects, or such part thereof as, according to their appraised value, may satisfy the debt, interest and expenses due to the poining Creditor and conjoined Creditor, shall be delivered by the Judge of the Roup to the said poining Creditor and conjoined Creditor, or to his or their authorized Agent, subject to the claims of other Creditors, to be ranked as by law competent.

27.
Effects to be
sold or de-
livered to
Poining
Creditors.

And be it Enacted, That on the movables being sold or delivered as aforesaid, the Judge of the Roup shall within Eight Days after the date of the sale make a Report to the Sheriff of the said sale or delivery ; and if the effects shall have been sold, he shall also, within the said space of Eight Days, lodge with the Sheriff-clerk the Roup-rolls, or certified copies thereof, and an account of the sum arising from, and of the expenses of the sale, which sum the Sheriff may, if he shall see cause, order to be lodged in the hands of the Sheriff-clerk ; and the said sum, after deduction of lawful charges, shall, if no cause be shown to the contrary, be ordered by the Sheriff to be paid to the poining Creditor and conjoined Creditor (provided the

28.
Report and
Price to be
lodged.

amount does not exceed the amount of the debt, interest and expenses), but subject to the claims of other Creditors, to be ranked as by law competent; and the Report and relative Documents, when lodged, shall be patent to all concerned, on payment of a fee of One Shilling only.

29.
Creditors entitled to purchase.

And be it Enacted, That where any effects are exposed to sale as aforesaid, it shall be lawful for the poidner or any other Creditor to purchase the same.

30.
Unlawful Intromitter liable to imprisonment and in Double the appraised value.

And be it Enacted, That if any person shall unlawfully intromit with or carry off the poidned effects, he shall be liable, on summary complaint to the Sheriff of the county where the effects were poidned, or where he is domiciled, to be imprisoned until he restore the effects, or pay Double the appraised value.

31.
Act not to affect Landlord's Hypothec.

And be it Enacted, That nothing herein contained shall affect the Landlord's Hypothec for rents or any hypothec known in law.

32.
Deliverances, &c. may be printed or written; one Witness sufficient.

And be it Enacted, That Extracts, Citations, Deliverances, Schedules, and Executions may be either printed or in writing, or partly both, and that, excepting in the case of poidnings, more than One Witness shall not be required for service or execution thereof.

33.
CLAUSE (A.)
Compensation.

And be it Enacted, That it shall be lawful for any person entitled to compensation for loss to be suffered through the operation or effect of this Act, to make application to the Lord High Treasurer, or to the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland for the time being, claiming such compensation, giving at the same time notice of such application to Her Majesty's Advocate, and it shall be lawful for the said Lord High Treasurer, or Commissioners of the Treasury, to investigate such claim, and call for such evidence in relation thereto as he or they may think necessary; and upon such claim being established to his or their satisfaction, the said Lord High Treasurer, or Commissioners of Her Majesty's Treasury, or any Three of them, is and are hereby authorized and empowered to award to such person such compensation as he or they shall think him entitled to, either by the payment of a gross sum, or by way of annuity, as he or they shall think proper: Provided always, That a Copy of every such award for compensation shall be laid before both Houses of Parliament within Two calendar Months after the commencement of the Session next ensuing after making the same; and no such award shall be final and conclusive until Two calendar Months after the same shall have been so laid before Parliament: Provided also, That if any person to whom compensation shall

shall be so awarded by way of annuity shall be afterwards appointed to any other public office, such compensation shall be accounted pro tanto of the salary payable to such person in respect of such other office, while he shall continue to hold the same.

5 And be it Enacted, That the several compensations which may be awarded under the authority of this Act shall be payable and paid out of the monies which by the Acts of the seventh and tenth years of the reign of Her Majesty Queen ANNE were made chargeable with the Fees, Salaries and other charges allowed, or to be allowed, for
 10 keeping up the Courts of Session, Justiciary or Exchequer in Scotland.

34.
 CLAUSE (B.)
 Compensation
 how to be
 paid.

And be it Enacted, That this Act may be amended or repealed by any Act passed during the present Session of Parliament.

35.
 Act may be
 repealed, &c.

SCHEDULES

REFERRED TO IN THE FOREGOING ACT.

No. 1.

WARRANT TO BE SUBJOINED TO EXTRACTS IN THE COURT OF SESSION, &c.

AND the said Lords grant Warrant to Messengers-at-Arms in Her Majesty's name and authority, to charge the said A. personally, or at his dwelling-place, if within Scotland, and if furth thereof, by delivering a copy of Charge at the Record Office of the Keeper of the Records of the Court of Session, [*state what the party is decerned to do; if to pay money, specify the sum, interest and expenses; or if to fulfil an obligation, specify it as in the Decree or other document,*] and that to the said B. [*specify the name of the person in whose favour the Decree is pronounced*] within [*insert the appropriate days*] next after he is charged to that effect, under the pain of poinding and imprisonment, [*if the sum or any part thereof be payable at a future time, add here, "the terms of payment being always first come and bygone;"*] and also grant Warrant to arrest the said A.'s readiest goods, gear, debts and sums of money, in payment and satisfaction of the said sum, interest and expenses; and if the said A. fail to obey the said charge, then to poind the said A.'s readiest goods, gear and other effects; and if needful for effecting the said poinding, grant Warrant to open all shut and lockfast places, in form as effeirs. Extracted [*specify place and date.*]

[*Extractor's signature.*]

No. 2.

EXECUTION OF CHARGE.

UPON the day of I, Messenger-at-Arms [or Officer of Court], by virtue of [*state nature and date of Extract and Decree or document whereupon it proceeds*] at the instance of B. [*specify name and designation of Creditor*] against A. [*specify name and designation of Debtor or Obligant*] passed, and in Her Majesty's name and authority, lawfully charged the said A., to [*state what the party has been charged to do; if to pay money, specify the sum, interest and expenses; or if to fulfil an obligation, specify it as in the Extract*] and that to the said B. within days next after the date of my said charge, under the pain of poinding and imprisonment; this I did by [*state mode of Execution, whether personally or otherwise*] before and in presence of C. witness to the premises.

[*Officer's signature.*][*Witness's signature.*]

No. 3.

CERTIFICATE OF REGISTRATION OF EXECUTION OF CHARGE.

PRESENTED by A. B. [*state name and designation*], and registered in the General Register of Hornings on the day of

[*Keeper's signature.*]

No. 4.

MINUTE IN BILL-CHAMBER FOR WARRANT TO IMPRISON.

[*Place and Date.*]

THE Charge being expired and registered, as per Execution and Certificate produced, Warrant is craved to search for, take and apprehend the person of the said A. [*specify name*]

name of Debtor or Obligant] and being so apprehended to imprison him within a tolbooth or other warding place, therein to remain until he fulfil the said Charge, and, if necessary for that purpose, to open shut and lockfast places; and Warrant also to Magistrates and Keepers of Prisons to receive and detain the said A. accordingly.

(signed) A. B., W. S.

[*The Clerk will subjoin*]

Fiat ut petitur.

[*Dated and signed by the Clerk.*]

No. 5.

MINUTE BY ASSIGNEE, &c.

[*Place and Date.*]

WARRANT is craved [*state what is prayed for*] at the instance of [*specify name and designation of the Applicant*] as [*Assignee or otherwise, as the case may be*], of [*specify name and designation of the person at whose instance the Extract was issued*]. Produced herewith [*assignation or confirmation, or other legal evidence of the acquired right, as the case may be*], dated the day of [*and if for imprisonment, Execution of expired Charge and Certificate of Registration shall be produced and Warrant craved as in No. 4.*]

(signed) A. B.

[*The Clerk will subjoin*]

Fiat ut petitur.

[*Dated and signed by the Clerk.*]

No. 6.

WARRANT TO BE SUBJOINED TO SHERIFF COURT EXTRACTS.

AND I, the said Sheriff, grant Warrant to Messengers-at-Arms and Officers of Court to charge the said A. personally, or at his dwelling-place [*state what the party is decerned to do; if to pay money specify the sum, interest and expenses; or if to fulfil an obligation, state the nature of it, as in the Decree or other document*], and that to the said B. [*name of the person in whose favour the Decree is pronounced*], within [*insert the appropriate days*] next, after he is charged to that effect, under the pain of poiding and imprisonment, [*if the sum or document or any part be payable at a future time, add here, "the terms of payment being first come and bygone;"*] and also grant Warrant in satisfaction of the said sum, interest and expenses to arrest the said A.'s readiest goods, debts and sums of money; and if the said A. fail to obey the said Charge, then to apprise, poid and distrain all the said A.'s readiest goods, gear and other effects; and if needful for effecting the said poiding, grant Warrant to open all shut and lockfast places, in form as effeirs. Extracted, &c.

[*Extractor's signature.*]

No. 7.

CERTIFICATE OF REGISTRATION OF EXECUTION OF CHARGE IN SHERIFF COURT.

PRESENTED by A. B. [*name and designation*], and registered in the particular Register of Hornings for the Shire of on the day of

[*Keeper or Clerk's signature.*]

No. 8.

MINUTE IN SHERIFF COURT FOR WARRANT TO IMPRISON.

[Place and Date.]

THE Charge being expired and registered, as per Execution and Certificate produced, Warrant is craved to search for, take and apprehend the person of the said A. [*name of Debtor or Obligant*] and being so apprehended to imprison him within a tolbooth or other warding place, therein to remain until he fulfil the said charge; and, if necessary for that purpose, to open shut and lockfast places; and Warrant also to Magistrates and Keepers of Prisons to receive and detain the said A. accordingly.

(signed) A. B.

[The Clerk will subjoin]

Fiat ut petitur.

[Dated and signed by the Clerk.]

No. 9.

MINUTE IN SHERIFF COURT BY ASSIGNEE, &c.

[Place and Date.]

WARRANT is craved [*state what is prayed for*] at the instance of [*specify name and designation of the Applicant,*] as [*Assignee or otherwise, as the case may be*] of [*specify name and designation of the person at whose instance the Extract was issued, and in whose right the Applicant is*] produced herewith, [*say assignation or confirmation, or other legal evidence of the acquired right, as the case may be,*] dated the day of , [*and if for imprisonment, Execution of expired Charge and Certificate of resignation shall be produced and Warrant craved to imprison as in No. 8.*]

(signed) A. B.

[The Clerk will subjoin]

Fiat ut petitur.

[Dated and signed by the Clerk.]

No. 10.

MINUTE FOR WARRANT OF CONCURRENCE.

[Place and Date.]

WARRANT of Concurrence by the Lords of Council and Session is craved at the instance of [*specify name and designation of Applicant*] for executing the within Warrant against the within designed [*specify name of Debtor or Obligant*] A. B.

[*If the application is to a Sheriff, leave out "Lords of Council and Session," and say Sheriff of (inserting the Shire).*]

[The Clerk of the Bills or the Sheriff-clerk, as the case may be, will subjoin]

Fiat ut petitur.

[Dated and signed by the Clerk of the Bills, or Sheriff-clerk, as the case may be.]

Personal Diligence (Scotland).

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend the Law of Scotland in matters
relating to Personal Diligence, Arrest-
ments and Poidings.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

*Ordered, by The House of Commons, to be Printed,
28 May 1838.*



A

B I L L

For Regulating the Sequestration of the Estates of Bankrupts in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in
the Committee.]

W^H**E**^R**E**<sup>E^S it is expedient to amend the laws for regu- Preamble.
lating the Sequestration of Estates of Bankrupts in
Scotland; **Be it Enacted**, by The QUEEN's most Excellent
MAJESTY, by and with the Advice and Consent of the Lords Spiritual
5 and Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, THAT all Sequestrations de-
pending at the commencement of this Act shall be proceeded in
and brought to a conclusion under the provisions of an Act passed
in the fifty-fourth year of the reign of his Majesty King GEORGE
10 the Third, intituled "An Act for rendering the Payment of Creditors
more equal and expeditious in Scotland," and not under this Act.</sup>

1.
Depending
Sequestra-
tions to be
proceeded
in under
54 Geo. 3,
c. 137.

And be it Enacted, That this Act shall commence and take effect
on and after the *First day of October One thousand eight hundred*
and Thirty-eight, and on and after that day, all Sequestrations shall
15 be awarded in virtue of and in terms of this Act, and of no other
Act, and such Sequestrations shall be proceeded in and brought to
a conclusion under the provisions of this Act.

2.
Commence-
ment of this
Act.

And be it Enacted, That in construing this Act the word "Lord
Ordinary" shall mean the Lord Ordinary officiating on the Bills in
20 the Court of Session; that the word "County" shall include
Sheriffdom, Shire and Stewartry, and every Ward, District or
Division thereof; that the word "Sheriff" shall include Sheriff Sub-
stitute, and Stewart, and Stewart Substitute; that the word "Sheriff
Court"

3.
Construction
and Meaning
of Words.

Court" shall include Stewart Court; that the word "Sheriff Clerk" shall include Sheriff Clerk Depute, Stewart Clerk, and Stewart Clerk Depute; that the word "Commissioners" shall mean a majority of the Commissioners hereinafter mentioned; that the word "Estates" shall comprehend every kind of property, heritable or moveable, real or personal, and all lands, tenements and hereditaments wherever situated, and all debts, claims and incorporeal rights belonging or due, or falling by succession or otherwise to the Bankrupt, and any part thereof; that the word "Deliverance" shall include any Order, Warrant, Judgment, Interlocutor, or Decree; that the word "Security" shall include all Securities, heritable or moveable, real or personal, and all Liens and Preferences, and all Conveyances thereof; that the word "Successors" shall mean and include heirs, heirs apparent, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors, where they have acquired the right; that the word "Month" shall mean a Calendar Month; that the word "Oath" shall include Affirmation, where by law such Affirmation shall be required to be taken in place of an Oath; that the word "Vote" shall, as well as the ordinary meaning thereof, include a consent to any offer of composition and to a discharge of the Debtor, and also a dissent from such offer or discharge, and generally any act as a Creditor; that the words "Debtor," "Bankrupt" and "Creditor" shall include Bodies Corporate, Politic or Collegiate, Companies or Partnerships, as well as Individuals, and shall, as well as all other words importing the singular number and masculine gender, include several persons as well as one person, and females as well as males, and several matters of the same kind as well as one matter, (unless in this and also in the other cases herein above specified, a different construction shall be provided, or the construction be repugnant to the subject-matter or context): and this Act shall be construed in the most beneficial manner for promoting the ends hereby intended, and shall include married women carrying on trade independent of their husbands, and widows and aliens, provided they fall within any of the descriptions hereinafter mentioned.

Act to be construed beneficially for the ends thereof.

4.
Sequestration of Estates of Debtors with their consent.

And be it Enacted, That the estates of any Debtor or Company subject to the laws of Scotland, and holding estates heritable or moveable within Scotland, may be sequestrated, provided that the Debtor or Company shall petition for Sequestration, with the concurrence of one or more Creditors, qualified as hereafter mentioned; and if the petition is not signed by the Debtor or Company, a mandate by him, and in the case of a Company, a mandate signed by the Company or those entitled to act for it, authorizing such petition, shall be therewith produced.

And

5.
Sequestration
of Estates of
a Deceased
Debtor.

And be it Enacted, That Sequestration may be applied for of the estates of any Deceased Debtor, who at the time of his death resided or had a dwelling-house or carried on business in Scotland, and was at that time owner of heritable or moveable estates in Scotland, provided that Sequestration shall be applied for by one or more Creditors qualified as hereinafter mentioned: but no such Sequestration shall be awarded until the expiration of *Six Months* from the Debtor's death, unless he shall have granted a mandate to apply for Sequestration, or was at the time of his death Notour Bankrupt, or had remained in sanctuary as hereinafter provided, or unless his successors shall concur in the petition or renounce the succession, in which several cases Sequestration shall forthwith be awarded.

6.
Sequestration
of Estates of
Debtors
without
consent.

And be it Enacted, That the estates of any Debtor subject to the laws of Scotland, who is or has been a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, artificer, packer, builder, carpenter, shipwright, innkeeper, hotel-keeper, stable-keeper, coach contractor, cattle-dealer, grain-dealer, coal-dealer, fish-dealer, lime-burner, dyer, printer, bleacher, fuller, calenderer, and generally the estates of any Debtor subject as aforesaid who seeks or has sought his living, or a material part thereof, for himself or as agent or factor for others by using the trade of merchandise, by way of bargain, exchange, barter, commission or consignment, or by buying and selling, or by buying and letting for hire, or by the workmanship or manufacture of goods or commodities, or by any of the said occupations alone or in partnership with another, may be sequestrated without the consent of such Debtor, provided that he be Notour Bankrupt, and have carried on business in Scotland in any of the said occupations, and have also, within a year before the date of presenting the Petition for Sequestration, resided or had a dwelling-house or place of business in Scotland, and that a Petition be presented by one or more Creditors, as hereinafter directed: Provided always, That it shall not be competent to sequester the estates of any Debtor without his consent, as a holder of stock in any of the public or national funds, or of India Stock, or as a Partner in any Company incorporated or established by Act of Parliament, or by Charter, or as a landholder or farmer, unless in these last cases he be bonâ fide a dealer in cattle not the produce of nor grazed nor worked on his farm, or unless he be a dealer in grain not the produce thereof.

Exceptions
from Seques-
tration with-
out consent.

And be it Enacted, That in like manner the estates of any Company subject to the laws of Scotland, and falling within any of the said descriptions, and not within any of the said exceptions, may be sequestrated without consent, provided any partner thereof has been rendered Notour Bankrupt for a Company Debt, and the Company

7.
Sequestration
of Estates of
Companies
without
consent.

have carried on business in Scotland in any of the said occupations, and a partner have, within a year before the date of presenting the Petition for Sequestration, resided or had a dwelling-house, or the Company have had a place of business in Scotland, and a Petition for Sequestration be presented by one or more Creditors of the Company, as hereinafter directed. 5

8.
Sequestration
of the Estates
of Debtors
retiring to the
Sanctuary.

And be it Enacted, That if any Debtor, subject to the laws of Scotland, and holding heritable or moveable estates there, shall retire to the Sanctuary, and remain therein for *Sixty Days* (either continuously or not), within the space of *Twelve Months* prior to presenting a petition for Sequestration, as hereinafter provided, the estates of such Debtor, although neither Notour Bankrupt nor falling within any of the said descriptions, may be sequestrated without the consent of such Debtor, provided a petition be presented by one or more creditors as hereinafter directed. 10 15

9.
Creditors
entitled to
petition for
Sequestration.

And be it Enacted, That any *One* Creditor whose debt amounts to not less than *Fifty Pounds*, or any *Two* Creditors whose debts together amount to not less than *Seventy Pounds*, or any *Three* or more Creditors whose debts together amount to *One hundred Pounds* or upwards, whether such debts are liquid or illiquid (provided they be not contingent), may concur in a Petition by a Debtor for Sequestration, or may petition for Sequestration of the estates of any Debtor or Company liable to be sequestrated without consent; provided that in the latter case the Petition be presented within *Four Months* from and after the date of the Notour Bankruptcy, or in case of retiring to the Sanctuary within *Four Months* from and after the expiration of the said *Sixty Days*. 20 25

10.
Creditors to
make Oaths
to verity of
Debt and
produce
Vouchers.

And be it Enacted, That to entitle a Creditor residing within the Kingdom of Great Britain and Ireland to petition or concur in a Petition for Sequestration, or to vote or to draw a dividend therefrom, he shall produce, either with the Petition for Sequestration, or at a meeting of the Creditors, or in the hands of the trustee, an Oath, taken before a Judge Ordinary, Magistrate, or Justice of the Peace, to the verity of the debt claimed by him; and he shall in such oath state what other persons (if any) are besides the Bankrupt, liable for the debt or any part thereof, and specify any security which he holds over the estate of the bankrupt or of other obligants; and depone that he holds no other obligants or securities than those specified; and where he holds no other person than the bankrupt so bound, and no security, he shall depone to that effect; and if he hold a collateral obligation or security, he shall, before voting, and before being ranked in order to draw a dividend, be bound to qualify his claim as hereinafter provided. 30 35 40

And

And be it Enacted, That to entitle a Creditor who is out of the Kingdom of Great Britain and Ireland to petition or concur in a petition or to vote, or to draw a dividend as aforesaid, he shall either make an oath to his debt, in the manner above provided, before a magistrate or Justice of the Peace of the country where he resides (he being certified to be a magistrate or Justice of the Peace by a notary public, British Minister or British Consul), or his known agent or mandatory in Great Britain or Ireland, may make an oath of credulity to the same effect; and where any creditor shall be under age, or incapable to make oath, an oath of credulity as aforesaid, by his legally authorized agent, factor, guardian or manager, shall be sufficient.

11.
Creditors out
of Great
Britain and
Ireland;

or incapable
of an oath.

Provided always, and be it Enacted, That the Creditor shall produce with his said oath, such Accounts and Vouchers as shall be necessary to prove his debt; but if not in possession thereof the period hereinafter assigned for lodging claims, with a view to a share in any dividend, he shall state in his oath the cause why the said accounts and vouchers are not produced, and in whose hands, to the best of his knowledge, the same are, which oath shall entitle him to have a dividend set apart till a reasonable time be afforded for production thereof, or for otherwise establishing his debt according to law; but he shall not be entitled to act or vote till such production be made or the debt established as aforesaid; and the Interim Factor or Trustee shall, on production of the oaths and grounds of debt, mark the same with his initials, and make an entry thereof in the Sederunt Book, and of the date when the same were produced, and if required he shall return to the Creditor the grounds of debt.

12.
Production of
Vouchers.

And be it Enacted, That application for Sequestration shall be by Petition to the Lord Ordinary, signed by the petitioner or his counsel or agent, and the petitioning or concurring Creditor shall in all cases produce with such petition an Oath to the effect above specified, and also the accounts and vouchers of debt, as hereinbefore provided; and where the Petition is presented for Sequestration of the estates of a deceased debtor, the petitioning creditor shall in his oath, or in a separate oath, specify the place where the debtor resided or had a dwelling-house, or carried on business in Scotland at the time of his death, and whether he was then owner of heritable or moveable estates in Scotland; and where the Petition is presented during the life of the debtor, or for Sequestration of the estates of a Company, without the consent of the Debtor or Company, the petitioning Creditor shall in such oath swear that he believes the Debtor or Company, as the case may be, to be within one or other of the said descriptions, and specify which description, or that he

13.
Mode of ap-
plying for Se-
questration.

believes the debtor to have retired and remained within the Sanctuary as hereinbefore provided.

14.
On Peti-
tion by the
Debtor, Se-
questration to
be awarded.

Order to elect
Interim Fac-
tor, Trustee
and Commis-
sioners.

Remit to
Sheriff.

Protection of
Debtor.

15.
Sequestration
of the Estates
of deceased
Debtor.

And be it Enacted, That where a Petition is presented for Sequestration by the Debtor or by a Company, with concurrence as aforesaid, the Lord Ordinary shall forthwith issue a deliverance by which he shall award Sequestration of the estates which then belong or shall thereafter belong to the Debtor or Company before the date of the discharge, and declare the estates to belong to the Creditors for the purposes of this Act, and he shall appoint a general meeting of the Creditors to be held at a specified hour on a specified day, being not earlier than *Eight* and not later than *Fourteen* lawful Days from the date of the deliverance (or as much earlier as circumstances will permit), at a convenient place within the county where the Debtor carries on or last carried on his business (failing which, at a convenient place within the county, of place of residence or last residence), to elect an Interim Factor, and he shall also appoint the Creditors to meet at a specified hour on another specified day, being not less than *Four* Weeks and not more than *Six* Weeks from the date of the deliverance, at the place fixed for the election of Interim Factor, to elect a Trustee or Trustees in succession, and Commissioners, and do the other acts hereinafter provided; and remit to the Sheriff of the county where the meeting is to be held to proceed in manner hereinafter mentioned; and the Lord Ordinary shall by the same deliverance grant a Protection against arrest or imprisonment for civil debt or obligation to the Debtor or Partners of the Company (as the case may be), until the meeting of the Creditors for the election of Trustee as hereinafter provided.

And be it Enacted, That where a Petition is presented for Sequestration of the estates of a Debtor who is dead, the Lord Ordinary shall grant warrant to cite the debtor's next of kin, heir apparent, heir or other successor (as the case may be), personally or at his dwelling-place, if known and within Scotland, or if not known, or if furth of Scotland, at the Office of Edictal Citations, and in either of these last cases also at the house where the Debtor had at the time of his death his residence, or at his place of business in Scotland, on induciæ of *Twenty-one* Days from the date of citation, to show cause why Sequestration should not be awarded, and they shall be cited accordingly; and if, on the expiration of the said *Twenty-one* Days, and production of an execution of citation, they fail to appear, the Lord Ordinary shall order intimation of such warrant to be published in the Edinburgh Gazette, requiring the said next of kin, heir apparent, heir or other successor (as the case may be), to show cause as aforesaid within a further space of *Twenty-one* Days from the date of the publication of the said intimation; and if they do not then appear, or if appearing, no cause to the contrary be

be shown by them or any party interested, the Lord Ordinary shall award Sequestration, and issue the other orders, as hereinabove provided in the case of any other Debtor, in so far as circumstances will permit; and he shall ordain any successor who has made up a title to, or is in possession of the estate of the Debtor, to transfer such estate, so far as liable for the debts of the deceased, to the Trustee to be appointed as hereinafter directed; and if desired, the Lord Ordinary shall grant diligence to recover evidence to show that the Debtor resided, or had a dwelling-house, or carried on business in Scotland at the time of his death, and was then the owner of heritable or moveable estates in Scotland: and if Sequestration shall be awarded, such Sequestration shall proceed in the same way as in other cases, with the differences necessarily arising from the death of the Debtor: and the petitioning Creditor may at any time after the execution of the citation, and before Sequestration is awarded, apply to the Lord Ordinary to appoint a Judicial Factor to administer the estate in the mean time, and if no cause be shown to the contrary, the Lord Ordinary may appoint a Factor accordingly; and it shall not be competent for any Creditor, after the date of the first deliverance on the Petition for Sequestration, to be confirmed Executor Creditor, or to raise or insist in any adjudication or diligence against the estate of the Debtor.

Judicial
Factor.

And be it Enacted, That where the Petition for Sequestration is presented without the consent of the Debtor, the Lord Ordinary shall grant warrant to cite him to appear within a specified period, if he be within Scotland, of not less than *Six* Days nor more than *Twenty-one* Days from the date of citation, by delivering to him personally, or by leaving at his dwelling-house or place of business, a copy of the petition and warrant, and if the Debtor be furth of Scotland, to cite him to appear within a specified period, being not less than *Thirty* Days nor more than *Forty* Days from the said date, by leaving a copy at the dwelling-house or place of business last occupied by him, and also at the Office of Edictal Citations, to show cause why Sequestration should not be awarded; and the Lord Ordinary shall, if desired, grant diligence to recover evidence of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of his having retired to and remained within the Sanctuary as aforesaid; and if, upon the expiration of the time specified in the warrant, the Debtor do not appear at the diet of appearance either in person or by his counsel or agent, or so appearing do not instantly pay or produce written evidence of the debt or debts being satisfied in respect whereof he was made Notour Bankrupt, or in respect of which he had retired to and remained within the Sanctuary, and also pay or satisfy the debt or debts due to the Petitioner or Petitioners or to any other Creditor or Creditors who may have appeared and

16.

If Sequestration applied for without the Debtor's consent, Warrant to cite, &c. to be granted.

concurred in the petition, or do not show cause why Sequestration should not be awarded, the Lord Ordinary, on production of evidence of the citation and of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of having retired to and remained within the Sanctuary as aforesaid, shall award 5
Sequestration, appoint a meeting to be held for the election of an Interim Factor, Trustee and Commissioners, remit to the Sheriff, and grant a personal protection, all to the effect and in the manner above specified.

17.
Sequestration
of the Estates
of a Com-
pany, without
the consent
thereof.

And be it Enacted, That where a Petition is presented for the 10
Sequestration of the estates of any Company, the Lord Ordinary shall issue warrant and other orders to the same effect, and dispose of the petition in the same way as in the case of individual Debtors, and it shall be a sufficient citation that a copy of the petition and warrant be left at the place where the business of the Company is 15
or was last carried on, provided a partner, or a clerk, or a servant of the Company be there, and failing thereof, at the dwelling-house of any of the acting partners, and if the house of such partner cannot be found, by leaving the copy at the Office of Edictal Citations; and Sequestration may be awarded either on the application of the 20
Company itself, or on the application of a Creditor without the consent thereof of the estates of the Company and Partners jointly, or of their respective estates separately.

18.
Liberation of
Debtor.

And be it Enacted, That the Lord Ordinary may, on application made, either in the petition for Sequestration, or by a separate 25
petition by the Debtor, grant warrant for liberating the Debtor, if in prison, after such intimation to the incarcerating Creditor or his known agent, as the Lord Ordinary shall deem to be just, and after hearing any objection to the granting of such Warrant; and if the application be refused, it shall be competent for the Debtor to 30
make a new application for liberation, with consent of the Trustee and the Commissioners; and on intimation and hearing objections as aforesaid, the Lord Ordinary may grant Warrant to liberate.

19.
Effect of
Warrant to
protect or
liberate.

And be it Enacted, That a copy certified by the Bill Chamber 35
Clerk of the deliverance granting protection or liberation, shall protect or liberate the Debtor or a partner of a Company from arrest or imprisonment in Great Britain and Ireland, and Her Majesty's other dominions, for civil debt or obligation contracted previous to the date of Sequestration; but such Warrant of protection or liberation 40
shall not be of any effect against the execution of a Warrant of arrest or imprisonment in meditatione fugæ, or ad factum prestandum, or for any criminal act.

And

And be it Enacted, That the Clerks of the Bill Chamber in the Court of Session shall be Clerks to Sequestrations under this Act, and they shall, so soon as a petition is presented for Sequestration, mark thereon (according to the desire of the petitioner) the Division of the Court to which the petitioner wishes the Sequestration to be appropriated, and to that Division the Sequestration shall be appropriated accordingly; and they shall keep a book, intituled, "The Register of Sequestrations," in the form of Schedule (A.) hereunto annexed, which book shall be patent to all concerned; and they shall forthwith therein enter the date of the first deliverance on every petition for Sequestration, and the name and designation of the Debtor, and of the petitioning or concurring Creditor; the place and county of the Debtor's residence dwelling-house, or place of business; the date of awarding Sequestration; the place and time appointed for the election of the Interim Factor and Trustee; the name and designation of the Interim Factor and of the Trustee and Commissioners; and the time fixed for lodging claims in order to obtain payment of the first dividend.

20.
Bill Chamber
Clerk to be
Clerk of Se-
questrations;
and Duties.

Register of
Sequestra-
tions.

And be it Enacted, That the party applying for Sequestration shall, before the expiration of the Second lawful day after the first deliverance, present an Abbreviate of the petition and deliverance, signed by him or his agent, in the form of Schedule (B.) hereunto annexed, to the Keeper of the General Register of Inhibitions at Edinburgh, who shall forthwith therein record the said Abbreviate; and the Abbreviate so recorded shall from the date of the said deliverance have the effect of an Inhibition, and of a citation in an adjudication of the estate of the Debtor, at the instance of the Creditors afterwards ranked on the estate; and it shall not be competent to stop such effect, or the effect of the Sequestration after it is awarded, by paying the debt or debts in respect of which it was awarded, and if the said Abbreviate be not so recorded, it shall have no effect as an Inhibition or citation as aforesaid; and the party applying for Sequestration shall, within *Four Days* from the date of the deliverance awarding Sequestration, insert a Notice, in the form of Schedule (C.) hereunto annexed, in the Edinburgh Gazette.

21.
Abbreviate to
be recorded in
Register of
Inhibitions.

Notice of Se-
questration
to be pub-
lished in
Gazette.

And be it Enacted, That the Deliverance awarding Sequestration shall not be subject to review; but any Debtor whose estate has been sequestrated without his consent, or the successor of any deceased Debtor whose estate has been sequestrated as aforesaid, or any Creditor (whether the Sequestration has been awarded with or without the consent of the Debtor or his successor) may within *Forty Days* after the date of the said Deliverance, present a petition to the Lord Ordinary, setting forth the grounds for recall, and praying for recall; and where Sequestration has been awarded of the estate of a

22.
Deliverance
awarding Se-
questration
not liable to
review, but
may be re-
called.

Notice to be
published.

deceased Debtor, when his successor was edictally cited, it shall be competent to such successor or any person having interest, to apply by petition as aforesaid, at any time before the publication of the advertisement, for payment of the first dividend hereinafter mentioned: And the Lord Ordinary shall in these several cases order a copy of the petition and of his Deliverance to be served on the petitioning Creditor, or (as the case may be) on the petitioning Debtor and the concurring Creditor, or on their respective known agents, and on the Interim Factor or Trustee, if appointed; and he shall require them to answer within a certain short time, and order a notice of the presenting of the petition to be published in the Edinburgh Gazette; and on the expiration of the said period he shall proceed to pronounce judgment; and if he shall recall the Sequestration, the recall shall be entered by the Clerk in the Register of Sequestrations, and by the Keeper of Inhibitions on the margin of the Record of Inhibitions; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

23.
No Recall
competent
after certain
times, unless
Nine-tenths
of Creditors
apply.

And be it Enacted, That no petition for recall of the Sequestration shall be competent after the expiration of the said *Forty Days*, or after the said advertisement for payment of the first dividend respectively: Provided, That Nine-tenths in number and value of the Creditors ranked on the estate as herein directed may apply at any time for recall by petition to the Lord Ordinary, who shall order notice of his deliverance to be published in the Edinburgh Gazette, requiring all concerned to appear within *Fourteen Days* from the date of publication in the Gazette, to show cause why the Sequestration should not be recalled; and on expiration of the said time he shall proceed to pronounce judgment; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

24.
Creditors may
be sisted in
place of
others.

Proceedings
to go on
although
Debtor die.

And be it Enacted, That if a Creditor who has petitioned for Sequestration, or concurred in such petition, or who has petitioned for recall of a Sequestration, or appeared to oppose a petition for Sequestration or recall, or lodged an objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his place, and follow out the proceedings; and if the Debtor shall die after the petition for Sequestration is presented, the proceedings shall notwithstanding be followed out in terms of this Act.

25.
Date of Se-
questration.

And be it Enacted, That in all questions under this Act the Sequestration shall be held to commence and take effect from the first deliverance by the Lord Ordinary; which shall be held to be the

the date of the Sequestration, although the Sequestration be not actually awarded till a later date.

And be it Enacted, That the awarding of Sequestration in virtue of this Act, shall render the Debtor or Company Notour Bankrupt, as at the date of the first deliverance, but without prejudice to any previous Notour Bankruptcy.

26.
Sequestration
equivalent to
Notour
Bankruptcy.

And be it Enacted, That the presenting of, or concurring in a petition for Sequestration, in manner before mentioned, or the lodging in terms of this Act, on oath, in the hands of the Interim Factor, Sheriff Clerk acting as Factor or Trustee, or the Sheriff officiating at any meeting of Creditors, shall interrupt prescription of the Creditors' debt so petitioning, concurring or claiming, and in regard to such debt, bar the effect of any Statute of Limitations in England or Ireland or Her Majesty's dominions; and although the Sequestration shall be recalled, such interruption or bar shall notwithstanding be effectual.

27.
Petitioning,
concurring or
claiming to
interrupt
Prescription,
and bar
Statute of
Limitations.

And be it Enacted, That notwithstanding the said remit to the Sheriff, the process of Sequestration shall be held to be depending in the Court of Session, and shall not fall asleep, nor cease by the death of the Debtor; and on the said remit being made, a copy of the Petition for Sequestration, and of the first deliverance, and also (where it is different) of the deliverance awarding Sequestration, certified by the Clerk of the Bill Chamber, shall, with the productions, be transmitted by the petitioner to the Sheriff Clerk of the county, or ward or place where the meeting for election of Interim Factor is directed to be held; and the Sheriff shall have as full power and jurisdiction as hitherto possessed by the Court of Session (subject always to review) to try and determine all questions in the Sequestration, except in those cases where the power is specially conferred on the Court of Session or Lord Ordinary; and the Sheriff Clerk and Officers of the Sheriff Court shall have power to act in their respective offices under this Act; and the Sheriff Clerk shall keep a register of Sequestrations transmitted to him in terms of the said Schedule (A.)

28.
Sequestration
to remain in
Court of
Session, but
Certified
Copy of Peti-
tion, &c. to be
transmitted
to the Sheriff
Clerk.

Jurisdiction
of Sheriff.

Sheriff Clerk
to keep
Register.

And be it Enacted, That all deliverances of the Lord Ordinary and of the Court of Session, and of the Sheriff, as well as extracts of all deliverances under this Act, shall be evidence in all courts and places within Great Britain and Ireland and Her Majesty's dominions, and shall be sufficient warrants for all Diligence and execution by law competent.

29.
Extracts to be
Evidence and
warrants for
Diligence.

And be it Enacted, That no person shall, by merely lodging an oath, or being ranked, or receiving payment of a dividend, or appearing

30.
Agent's claim
for expenses
restricted to

estate and
against em-
ployer.

appearing or voting at a meeting in a Sequestration as a Creditor, be personally liable for any claim by the agent or other person employed by the Interim Factor or Trustee, for money advanced or expense incurred or remuneration in relation to the affairs of the estate, reserving to the agent or other person so employed, right to 5 payment out of the estate, and from the Interim Factor or Trustee by whom he may have been so employed in so far as the same may be lawfully competent to him; and no Interim Factor or Trustee shall have relief in respect of such payment against such Creditor, reserving to such Interim Factor or Trustee relief against the estate 10 and against those Creditors or others who may on other grounds be liable in relief.

31.
Mandatories
for Creditors
may vote.

And be it Enacted, That the mandatory of any person entitled to vote as a Creditor may vote in the absence of such Creditor, provided he exhibit a written mandate; and the vote of such manda- 15 tary shall, within his mandate, be held as the vote of the Creditor himself.

32.
Persons ac-
quiring Debts
after Seques-
tration not to
vote.

And be it Enacted, That no person who shall acquire, after the date of the Sequestration, otherwise than by succession or marriage, a debt due by the Bankrupt, shall be entitled to vote in the elec- 20 tion of Interim Factor or Trustee or Commissioners, but in all other respects such person may be reckoned as a Creditor.

33.
Creditors may
accumulate
Arrears of
Interest.
Rules as to
Interest on
Debts and
Discounts.

And be it Enacted, That if a Creditor claim for a debt with bygone interest, he may in his oath accumulate the interest as at the date of the Sequestration, and he shall specify the amount, but he shall not 25 be entitled to claim on the estate for interest either on the principal Debtor on such accumulated sum after the date of the Sequestration; and if a Creditor claim for a debt which is not payable till after the date of the Sequestration, he shall in his oath deduct the legal interest thereon from the date of the Sequestration to the term 30 of payment, and specify the balance; and if he claim for a debt which, by the usage of trade, is liable to a discount of more than legal interest, he shall in his oath state the amount of such discount, and deduct it from the debt, and specify the balance; provided that if such debt be not payable at the date of the Sequestration, he 35 shall also deduct from such balance the legal interest as aforesaid, and specify the balance: and the Creditor in the said several cases shall be entitled to vote, and to draw dividends for the said accumulated sum or balance respectively and no more: Provided that, if there be any residue of the estate after discharging the debts 40 ranked, he shall be entitled to claim out of such residue the full amount of the interest on his debt in terms of law.

And

And be it Enacted, That if a Creditor hold a security for his debt over the estate or effects of the Bankrupt, he shall, before voting make an oath, in which he shall put a value on such security, and deduct such value from his debt, and specify the balance : and if
 5 the estate be sold and the price realized, he shall specify in his oath the free proceeds which he has received or shall be entitled to receive therefrom, and specify the balance due after deduction thereof, and he shall be entitled in either case to vote only in respect of such balance and no more, without prejudice to the
 10 amount of his debt in other respects ; and being counted as herein-after provided, and in questions as to the disposal or management of the estate or effects subject to his security, he shall be entitled to vote as a Creditor for the whole amount of his debt, without making any such deduction.

And be it Enacted, That where a Creditor has an obligant bound with, but liable in relief to the Bankrupt, in whole or in part, or hold any security from such obligant, or any other security against the subject of which the Bankrupt has a right of relief, he shall, before voting make an oath, in which he shall put a value on the
 20 obligation of such obligant, and on such security, to the extent to which the Bankrupt is entitled to relief, and deduct such value from his debt, and specify the balance ; and he shall be entitled to vote in respect of such balance only, without prejudice to the amount of his debt in other respects.

And be it Enacted, That a Creditor on the estate of a company shall not be bound for the purpose of voting on the company's estate to deduct from his claim the value which he may be entitled to draw from the estates of the partners ; but if he claim on the estate of a partner, he shall, before voting, in his oath, put a value
 30 on his claim against the company, and also against the other partners thereof, in so far as they are liable to relieve such partner, and deduct such value from his debt, and specify the balance ; and he shall be entitled to vote as a Creditor for the said balance only, and no more, without prejudice to the amount of his debt in other
 35 respects, and being counted in number as hereinafter specified.

Provided always, and be it Enacted, That it shall be competent to the Trustee, with consent of the Commissioners, within Two Months after an oath specifying the value of a security or obligation in the several cases before-mentioned, has been made use of in
 40 voting at any meeting, or in assenting to or dissenting from the Bankrupt's composition or discharge, to require from the Creditor making such oath a conveyance or assignation to such security or obligation on payment of the specified value, with Twenty per centum

34.
Rules as to voting, where a Creditor holds a security over the Bankrupt's estate.

35.
Rules as to voting, &c. where a Creditor has obligants liable in relief to the Bankrupt.

36.
Valuation of claims by Creditors of a Company or a partner's estate.

37.
Right of Trustee to Assignation to Securitica.

Provision for
change on
values of
Securities.

in addition to such value; and the Creditor shall be bound to grant such conveyance or assignation at the expense of the Trustee: Provided, that where a Creditor has put a value on such security or obligation, he may, any time before he has been required to convey and assign as aforesaid, correct such valuation by a new oath, 5 and deduct such new value from his debt.

38.
Rules as to
Valuation of
Securities'
accounts, with
a view to a
dividend.

And be it Enacted, That to entitle any Creditor who holds a security over the estate or effects of the Bankrupt, to be ranked, in order to draw a dividend, he shall on oath put a value on such security, and deduct such value from his debt, and specify the 10 balance; and the Trustee, with consent of the Commissioners, shall be entitled to an assignation to such security or preference, on payment of the value so specified out of the first of the Common Fund, or to reserve to such Creditor the full benefit of such security or preference, and in either case the Creditor shall be ranked for 15 and receive a dividend on the said balance, and no more, without prejudice to his debt in other respects.

39.
Valuation of
Claims by
Creditors of
a Company
with a view
to a dividend
on a Partner's
Estate.

Provided always, and be it Enacted, That where a Creditor claims on the estate of a partner of a Company, in respect of a debt due by such Company, the Trustee on the estate of such partner shall, before 20 ranking such Creditor for payment of a dividend, put a valuation on the estate of the Company, and deduct from the claims of such Creditors such estimated value as the Trustee may have fixed, and rank and pay to them a dividend only on the balance; but the judgment of the Trustee shall be subject to review, as hereinafter 25 provided.

40.
Contingent
Creditors.

And be it Enacted, That where the claim of a Creditor depends upon a contingency which is unascertained at the date of lodging the claim, he shall not be entitled to vote, nor to draw a dividend in respect of such contingent debt; but he may apply to the Sheriff, 30 if the Trustee has not been elected, or if elected, to the Trustee, to put a value on such debt, and the Sheriff or Trustee (as the case may be) shall put a value thereon; and on such value being fixed, such Creditor may vote in respect of such value, and be counted in respect thereof, and also in number, if such value exceed *Twenty* 35 Pounds, and draw dividends on such value: Provided that if such contingency has ceased before the debt has been valued, such Creditor may vote and draw dividends in respect of the amount of the debt, but the same shall not disturb any former dividends allotted to other Creditors; and where such application is made to the Sheriff, 40 notice thereof shall be given to the Interim Factor (if he be elected) and if not elected, to the Bankrupt and petitioning or concurring Creditor; and the judgment of the Sheriff or Trustee shall be subject to

to review, and any Creditor who has claimed on the estate may appeal and be heard thereon.

And be it Enacted, That any Creditor in respect of an annuity granted by the Bankrupt, may, if the Trustee has not been elected, apply to the Sheriff, or if elected, to the Trustee, to put a value on such annuity; and the Sheriff or Trustee (as the case may be) shall put a value on the annuity, regard being had to the original price given for the said annuity, deducting therefrom such diminution in the value of the annuity as shall have been caused by the lapse of time, since the grant thereof, to the date of the Sequestration; and such Creditor shall be entitled to vote and draw dividends in respect of such value, and no more: Provided always, That where such application is made to the Sheriff, notice thereof shall be given to the interim Factor (if elected), and if not elected, to the Bankrupt and the petitioning or concurring Creditor; and the judgment of the Sheriff or Trustee shall be subject to review; and any Creditor who has claimed on the estate may appear and be heard thereon.

41.
Annuity Creditors.

Provided always, and be it Enacted, That it shall not be lawful to any person entitled to an annuity granted by the Bankrupt to sue or charge, after the date of the Sequestration, any Cautioner for the payment of such annuity, until the value of the annuity has been fixed in manner hereinbefore provided, and such Cautioner shall only be liable for the value so fixed, and the arrears thereof; and on such Cautioners making payment of such value to the Creditor, with the arrears of the annuity (if any), and the lawful interest on such value, the Cautioner shall be discharged of all liability in respect of his obligation, and may thereupon enter a claim in the Sequestration for the sum so paid, and vote and draw dividends thereon: Provided always, That if such Cautioner shall not pay the sum so fixed and interest as aforesaid, before any payment of the annuity subsequent to the fixing thereof becomes due, he shall be bound to make payment of the said annuity, and all subsequent annuities, until he shall make payment of the sum so fixed, arrears of annuity and interest as aforesaid, deducting always such dividends as the Creditor shall have received before full payment as aforesaid.

42.
Provision as to Cautioners for annuities.

And be it Enacted, That where a Creditor has an obligant bound to him along with the Bankrupt for the whole or part of the debt, such obligant shall not be freed from his liability for such debt in respect of any vote given, or dividend drawn by the Creditor under this Act, or of his assenting to the discharge of the Bankrupt, or to any composition proposed by him; but such obligant may require and obtain at his own expense from such Creditor an assignation to the debt on payment of the amount thereof, and in virtue thereof enter a claim on the

43.
Claiming or acting in the Sequestration not to discharge Co-obligants.

said estate, and vote, and draw dividends, if otherwise lawfully entitled to do so.

44.
Oath not to
supersede
legal Evi-
dence.

And be it Enacted, That in no case shall oaths of verity or credulity supersede production of legal evidence where required in any judicial discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee. 5

45.
Rule as to
Majorities.

And be it Enacted, That all questions at any meeting of Creditors shall be determined by the majority in value of those present and entitled to vote, unless in the cases herein otherwise provided for; and where, for the purpose of voting, the Creditors are required to be counted in number, no Creditor whose debt is under *Twenty* Pounds shall be reckoned in number, but his debt shall be computed in value. 10

46.
Proceedings
at Meetings
for election of
Interim Fac-
tor or Trust-
tee.

And be it Enacted, That Creditors or their mandataries qualified as aforesaid shall assemble at the times and places fixed respectively for the election of Interim Factor, and for election of the Trustee, with power to adjourn on these or any other occasions for such reasonable time as may seem fit; and if Two or more Creditors shall give notice to the Sheriff or Sheriff Substitute of the county, such Sheriff or Sheriff Substitute (or in case of necessary absence, a Sheriff Substitute authorized by the-Sheriff to act under this Act) shall with the Sheriff Clerk or his Depute attend the meeting; and the Sheriff or Sheriff Substitute shall preside thereat, and the Sheriff Clerk shall mark the oaths and productions with his initials, and enter in the minutes the names and designations of the creditors, or the mandataries of Creditors, and the amount for which they claim, and any other circumstances which the presiding Sheriff shall judge fit; which minutes the Sheriff or his Substitute shall sign; and the Clerk shall retain the oaths of the several claimants, subject to exhibition thereof in his hands, till the election shall be determined, when he shall deliver the same to the interim Factor or Trustee (as the case may be); and where no such requisition is made for the attendance of the Sheriff or Sheriff Substitute, the Creditors shall elect a Preses and Clerk, and the Preses shall mark the oaths and productions with his initials, and sign the minutes, and the Clerk shall in the presence of the meeting write the minutes: and the Creditors or their mandataries, who have produced their oaths and documents of debt, and who have been entered in the minutes, shall then and there elect a fit person to be Interim Factor, or to be Trustee (as the case may be), or two or more Trustees to act in succession in case of non-acceptance, death, resignation, removal or disqualification; and in the case of the Sequestration of the estates of a company and of the partners, one Interim Factor and (as the case 15 20 25 30 35 40

case may be) one Trustee for all the estates, or separate Interim Factors or (as the case may be) separate Trustees on the estates of the company, and on the estates of all or each of the individual partners and trustees in succession as aforesaid: And it shall not be
 5 lawful to elect as Interim Factor or Trustee the Bankrupt, or any person conjunct and confident with the Bankrupt, or who holds an interest opposed to the general interest of the Creditors, or whose residence is not within the jurisdiction of the Court of Session.

And be it Enacted, That if at the election either of Interim
 10 Factor or Trustee (as the case may be), any objection be made to the votes or candidates, such objections may, if the Sheriff or ordinary Sheriff Substitute be present, be forthwith disposed of by him, or he may make avizandum, and he shall, if necessary, make a short note of the objections and of the answers, on which he shall within *Four*
 15 Days after the meeting hear parties vivâ voce, and declare the person to be Interim Factor, or (as the case may be) the person or persons, trustee or trustees in succession, whom he shall find to have been duly elected, and state the grounds of his decision in a note.

47.
 Procedure where no Objections made, and where they are made.

20 Provided always, and be it Enacted, That where the officiating Sheriff, present at the said meeting for the election, is a Sheriff Substitute appointed to act in the absence of the Sheriff or of the ordinary Sheriff Substitute of the county, or is a Preses elected by the Creditors, such Substitute or Preses, whether there be any com-
 25 petition or not, shall forthwith report the proceedings to the Sheriff or ordinary Sheriff Substitute, and the oaths of the several claimants shall, if the Sheriff Clerk or his Depute be present, remain in his possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by him till the Interim Factor
 30 or Trustee (as the case may be) shall be finally appointed, when he shall deliver the same to such Interim Factor or Trustee; and if there be no competition, the Sheriff or ordinary Substitute shall declare the person elected Interim Factor or (as the case may be) Trustee or Trustees in succession; and if there be competition, the
 35 parties shall, within *Four* Days from the date of the said meeting, lodge in the hands of the Sheriff Clerk short notes of objections, and the Sheriff or ordinary Sheriff Substitute shall forthwith hear parties thereon vivâ voce, and give his decision, and state the grounds thereof in a note; and the deliverance of the Sheriff or Sheriff
 40 Substitute, declaring the person elected to be Interim Factor, shall in no case be subject to review in any court or in any manner whatever.

48.
 Provision for the case where the Sheriff or or ordinary Substitute is not present at the meeting.

49.
Amount of
Caution to be
fixed, and
Bond to be
lodged.

And be it Enacted, That the Creditors shall at the said meetings respectively fix a sum for which the Interim Factor shall find security, and for which the Trustee to be confirmed shall also find security, for their respective intromissions and performance of the duties and rules hereby enacted, and shall also decide on the sufficiency of the caution offered by the respective competitors; and the Interim Factor and the person declared to be Trustee shall respectively forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Interim Factor and his Cautioner, and by the Trustee and his Cautioner (as the case may be) in the form of the Schedule (D.) hereunto annexed, which bond shall be furnished to him by the Sheriff Clerk.

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50.
Confirmation
and Act and
Warrant to be
issued.

And be it Enacted, That on such Bond being lodged, the Sheriff shall confirm the election of the person chosen Interim Factor or Trustee (as the case may be); which delivrance shall be final and not subject to review in any Court or in any manner whatever, and the Sheriff Clerk shall thereupon issue an Act and Warrant in the form of Schedule (E.) hereunto annexed to the Interim Factor; and in the case of the election of Trustee, an Act and Warrant in the form of Schedule (F.) hereunto annexed to the Trustee; and the Interim Factor or Trustee (as the case may be) shall immediately transmit a copy of the said Act and Warrant to the Bill Chamber Clerk, who shall thereupon make an entry of the name and designation of the Interim Factor and of the Trustee (as the case may be) in the Register of Sequestrations; and the said Act and Warrant shall be an effectual title to the Interim Factor and Trustee respectively to perform the duties hereby imposed on them, and shall be evidence of the Trustee's right and title to the said estates for the purposes of this Act; and a copy of the said Act and Warrant in favour of the Interim Factor or Trustee, certified by the Bill Chamber Clerk, and authenticated by the seal of the Court of Session, shall be received in all courts and places within England, Ireland and Her Majesty's other dominions, as evidence of the title, and shall entitle them respectively or the Trustee or Interim Factor to recover debt due to the Bankrupt and to maintain actions in the same way as the Bankrupt might have done if his estates had not been sequestrated.

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And to be a
title as
Interim
Factor or
Trustee.

51.
Sheriff Clerk
to act if no
Interim Fac-
tor elected.

Power to
Sheriff to seal
up and pre-
serve estate,
before election
of Factor.

And be it Enacted, That in case the Creditors shall fail to elect an Interim Factor, or the nomination shall otherwise fail, the interim care and management of the estate shall devolve on the Sheriff Clerk of the county; and the Sheriff shall have power upon cause shown by any of the Creditors at any time after the sequestration, and before the election of an Interim Factor, to seal up and cause to

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to

to be put under safe custody the books and papers of the bankrupt, and to lock up his shop, warehouse or other repositories, and to keep the keys thereof till a Factor is named, or the care of the estate devolved on the Sheriff Clerk, subject to such orders as the Sheriff may see fit for preservation.

And be it Enacted, That the Interim Factor shall, immediately on receiving the Act and Warrant of his appointment, or, failing him, the Sheriff Clerk shall take such steps as may be necessary for the preservation of the estate until the meeting of the Creditors for the election of Trustee; and he shall take possession of and recover the Bankrupt's estate, and his title-deeds, books, bills, vouchers, and all other documents whatsoever, so far as then known, and make an inventory thereof, and he shall transmit a copy of such inventory to the Bill Chamber Clerk; and he shall lodge in Bank all monies received by him as hereinafter directed, and he shall pay to the petitioning or concurring Creditor, out of the first funds which shall come into his hands, the expense incurred by him in obtaining the Sequestration, and doing the other acts hereby required prior to the election of the Interim Factor, as the same shall be taxed; and if the funds received by the Interim Factor or Sheriff Clerk shall not be sufficient, such expenses shall be paid by the Trustee, when he shall be appointed, out of the first of the funds which shall come into his hands.

52.
Duties of
Interim
Factor.

To lodge
Money in
Bank, &c.

And be it Enacted, That the Bankrupt shall with all despatch, and before the time appointed for the election of Trustee, make up and deliver to the Interim Factor (or Sheriff Clerk, as the case may be) a state of his affairs, specifying his whole estate, wherever situated, the estates in expectancy or to which he may have an eventual right, the names of his Creditors and Debtors, and the debts due by and to him, and a rental of his heritable subjects, which state and rental shall be subscribed by the Bankrupt and preserved by the Interim Factor or Sheriff Clerk acting as Factor, and abstracts thereof shall be ingrossed in a Sederunt Book to be kept by him; and the Bankrupt shall at all times give every information and assistance necessary to enable the Interim Factor or Sheriff Clerk acting as Factor or Trustee to execute his duty; and if the Bankrupt fail to do so, or to grant any deed which may be requisite for the recovery of the estate, the Interim Factor or Sheriff Clerk acting as aforesaid or Trustee may apply to the Sheriff to compel him to give such information and assistance, and to grant such deed, under the penalty of incarceration and of forfeiture of the benefits of this Act; and, unless cause be shown to the contrary, the Sheriff shall issue a warrant of incarceration accordingly.

53.
Bankrupt to
make up state
of affairs, and
give informa-
tion and
assistance.

54.
At meeting to
elect Trust-
tee, Interim
Factor to ex-
hibit States,
and be remu-
nerated.

And be it Enacted, That at the time and place appointed for the said meeting to elect a Trustee, the Interim Factor (or Sheriff Clerk) shall exhibit the Sederunt Book containing the said inventory, state and rental, and also an account of his intromissions and disbursements, and if required by any Creditor, the books of the Bankrupt, with the title-deeds, bills, vouchers and other documents, conform to inventory; and if the meeting be satisfied that the Interim Factor (or Sheriff Clerk) has duly lodged the money and performed his duties, they shall fix his remuneration, and he shall receive payment thereof, and of all advances made by him out of the funds in his hands: and if the Interim Factor (or Sheriff Clerk) be dissatisfied with the sums allowed, the same shall be determined by the Sheriff; but the Interim Factor (or Sheriff Clerk) shall not be entitled, in respect of non-payment thereof or on any other ground, to retain any part of the estate, and he shall be bound forthwith to deliver the estate, books, title deeds, bills, vouchers, and the said state, rental, and all other documents to the Trustee, who shall, if sufficient funds have not been realized by the Interim Factor (or Sheriff Clerk), pay the said remuneration and advances out of the first money which shall come into his hands.

55.
Appeal
against Elec-
tion of Trust-
tee.

And be it Enacted, That any Creditor or Competitor giving notice in writing to the Sheriff Clerk, within *Two Days* after the date of the Sheriff's deliverance declaring the election of the Trustee, of his intention to appeal against such deliverance, shall be entitled to appeal during Session to the Inner House of the Court of Session, or in vacation to the Lord Ordinary, provided that a Bond of Caution for the Competitor, signed by a Cautioner approved of at the said meeting, for election of Trustee, shall along with such notice be lodged with the Sheriff Clerk, and a certificate thereof by the Sheriff Clerk, with a note of appeal against such deliverance, be lodged with and marked by the Clerk of the Bill Chamber within *Fourteen Days* from the date of such deliverance; and on a copy of such note, certified by the Bill Chamber Clerk, being delivered to the Sheriff Clerk, he shall forthwith transmit to the Bill Chamber Clerk the minutes of election, together with such of the proceedings as may be required; and the Inner House, or the Lord Ordinary (as the case may be) shall thereupon hear parties *vivâ voce*, and decide which of the Competitors has been duly elected, or may order a new election, and appoint a time and place for that purpose; and if the appealing Competitor shall be preferred, a remit shall be made to the Sheriff to confirm him; and no part of the expense of such competition, either before the Sheriff or any other court, shall be paid out of the estate, but the expenses shall be ordered to be paid by the unsuccessful party to the successful party.

Expenses
how to be
paid.

And

And be it Enacted, That no appeal shall have the effect to stop the proceedings in the Sequestration, and the Interim Factor (or Sheriff Clerk as the case may be) shall continue to act until a Trustee shall be finally confirmed; and on every new election an appeal may be made and other proceedings take place in manner before provided; and the Interim Factor shall deliver to the person confirmed Trustee the estate of the Bankrupt, with the books, title-deeds and other documents in his possession, and account to him for his intromissions; and the Creditors may at any meeting (which, if required, the Trustee shall call) make an allowance to the Interim Factor (or Sheriff Clerk) for his trouble during the period of his administration, subject to review of the Sheriff as aforesaid; and the Trustee shall pay the sum so allowed, and the expenses incurred by the Interim Factor or Sheriff Clerk out of the first of the funds.

56.
Appeal not to stop Sequestration.

Interim Factor to continue to act.

Remuneration to Interim Factor.

And be it Enacted, That at the meeting for election of Trustee, the Creditors present, or their Mandatories, shall, after the election of the Trustee, elect *Three* Commissioners (if there be so many Creditors who have claimed), who shall be either Creditors or Mandatories of Creditors, and the same proceedings shall take place in regard to their election as is provided in regard to the election of Trustee, (except that they shall not be bound to find security), and the Sheriff shall decide who are the persons duly elected, and declare their election by a deliverance in the Sederunt Book, which shall entitle them to act without further authority; and a majority of them shall be a quorum: Provided that no person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatary who has been elected a Commissioner shall lose that office upon written intimation being sent by his constituent to the Trustee that he has recalled the mandate, and the Trustee shall immediately record the intimation in the Sederunt Book; and the Trustee shall, in all cases where a Commissioner has declined or ceased to act, call a meeting of Creditors for the purpose of electing a new Commissioner, and such Commissioner shall be elected in manner hereinbefore provided.

57.
Election of Commissioners.

Disqualification.

And be it Enacted, That the Commissioners shall superintend the proceedings of the Trustee, concur with him in submissions and transactions, give their advice and assistance relative to the management of the estate, examine the acts and intromissions of the Trustee, audit his accounts, decide as to paying or postponing payment of a dividend, fix his remuneration (subject to the review of the Sheriff), and may assemble at any time to ascertain the situation of the Bankrupt estate; and any *One* of them may make such report as he may think proper to a general meeting of the Creditors.

58.
Duties of Commissioners.

59.
Offer of Com-
position may
be made at
this Meeting.

Renewal of
personal Pro-
tection.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the Bankrupt's examination, or at any other meeting called for the purpose, an offer of composition may be made to the Creditors in manner hereinafter provided; and the majority in number and value of the Creditors present may resolve that the personal protection of the Bankrupt ought to be renewed, and in such case the Trustee shall apply to the Sheriff, who shall renew the protection; and the deliverance by him renewing the same, or an extract thereof signed by the Sheriff Clerk, shall have the same effect as the original warrant of protection.

60.
Allowance to
Bankrupt.

And be it Enacted, That at the said meeting for election of Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, *Four-fifths* in value of the Creditors present may authorize payment from time to time to the Bankrupt, or to the partners of a Company (if the Sequestration be of a Company estate), of such sum out of the estate as they shall think proper for subsistence until the period assigned for payment of the second dividend, but such allowance shall not exceed *Three Guineas* per week to the Bankrupt, or to each individual partner of a company from the date of the Sequestration to the period aforesaid; and no allowance shall be given if the Bankrupt shall not have complied with the provisions of this Act.

61.
Entry of Con-
firmation in
Register of
Adjudica-
tions.

And be it Enacted, That the Trustee, within *Twenty-one Days* after his election is confirmed, shall present an abbreviate, signed by him or his agent, in the form of Schedule (G.) hereunto annexed to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and the like proceeding shall take place within *Twenty-one Days* after the election of each new Trustee shall be confirmed.

62.
Trustee's
Duties.

Money to
be lodged in
Bank.

And be it Enacted, That the Trustee shall manage, realize and recover the estate belonging to the Bankrupt wherever situated, and convert the same into money, according to the directions given by the Creditors at any meeting, and if no such directions are given, he shall do so, with the advice of the Commissioners; and he as well as the Interim Factor or Sheriff Clerk shall lodge all money which he may receive in such Bank as *Four-fifths* of the Creditors in number and value at any general meeting shall appoint, and failing such appointment in one or other of the following Banks; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company, the Commercial Bank of Scotland, or the National Bank of Scotland (provided that the Bank be not one in which the Interim Factor or Trustee, or any Commissioner shall be

be an acting partner, manager, or cashier); and the same shall be lodged in the name of the Interim Factor, or Sheriff Clerk, or Trustee in his official character under this Act, at the highest rate of interest which can be procured for the same; and such Bank shall, once yearly at least, balance the said account, and accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if the Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated.

10 And be it Enacted, That if either the Interim Factor, or Sheriff Clerk or Trustee shall keep in his hands more than *Fifty Pounds* of cash belonging to the estate for more than *Ten Days*, he shall pay a sum to the Creditors at the rate of Twenty per centum per annum on the excess of the said sum of *Fifty Pounds*, for such time as it shall be in his hands beyond the said *Ten Days*; and the Interim Factor or Trustee shall be dismissed from his office upon petition to the Lord Ordinary by any Creditor, and subject in expenses, and neither they nor the Sheriff Clerk shall have any claim to remuneration, unless the Lord Ordinary shall be satisfied that the money has been kept from innocent causes.

63.
Twenty per cent. on Money not lodged.

And be it Enacted, That the Trustee shall keep a Sederunt Book, in which he shall record all minutes of Creditors and of Commissioners states of Accounts, Reports, and all the proceedings necessary to give a correct view of the management of the estate, and he shall also keep regular Accounts of the affairs of the estate, and transmit to the Bill Chamber Clerk before each of the periods herein assigned for payment of a dividend, a Copy certified by himself of such Accounts, and such copies shall be preserved in the office of the said Clerk; and the said Sederunt Book and Accounts shall be patent to the Commissioners, and to the Creditors or their agents at all times: Provided always, That where any document is of a confidential nature (such as the opinion of counsel in regard to any matter affecting the interests of the Creditors on the estate), the Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit it to any other person than the Commissioners, unless he be ordered by competent authority to do so.

64.
Trustee to keep a Sederunt Book and Accounts, and send copy of Accounts to Clerk.

And be it Enacted, That the Interim Factor, Sheriff Clerk, Trustee and Commissioners shall be amenable to the Lord Ordinary and to the said Sheriff, although resident beyond the territory of the said Sheriff at the instance of any party interested, to account for their intromissions and management, by petition, served on them; and in case it shall appear that such application ought not to have been made, the party complained of shall be entitled to his full costs

65.
Interim Factor, Sheriff Clerk, Trustee and Commissioners amenable to Lord Ordinary and Sheriff.

to be either retained out of the funds or recovered from the party complaining, as the Lord Ordinary or the Sheriff shall direct, or shall give such directions in regard to costs as they shall think fit.

66.
Sheriff to
appoint day
to examine
Bankrupt;
and Meeting
of Creditors
to be pub-
lished.

And be it Enacted, That the Trustee shall within *Eight Days* after the date of confirmation, apply to the Sheriff to name a day 5
for the public examination of the Bankrupt; and the Sheriff shall issue his warrant for the Bankrupt to attend within the Sheriff Court-house or other convenient place; on a day and at an hour (being not sooner than *Fourteen Days* nor later than *Twenty-one Days* from the date of his warrant) and on the Sheriff granting such 10
warrant, the Trustee shall publish an advertisement, in terms of Schedule (H.) hereunto annexed, in the Edinburgh Gazette, intimating to the Creditors his name and designation, his election as Trustee, the day, hour and place fixed for the examination of the Bankrupt, and also a specified day (being not sooner than *Fourteen* 15
Days nor later than *Twenty-one Days* after the day appointed for the examination of the Bankrupt), and the hour and place for holding a meeting of the Creditors.

67.
Warrant to
apprehend
Bankrupt for
examination.

And be it Enacted, That it shall be competent for the Sheriff to grant warrant to apprehend the Bankrupt, and bring him before 20
the Sheriff for examination; and if the Bankrupt be incarcerated for a debt or other civil obligation, within Scotland, the Sheriff may grant warrant to Magistrates and gaolers, on receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the officer presenting the same, and 25
they shall do so accordingly; and the Sheriff may also grant warrant to bring the Bankrupt from the Sanctuary, which warrant shall protect against arrest for debt, or other civil obligation, while under examination, and on the way to and from the place of examination; and such warrants shall be sufficient authority, either within or 30
beyond the territory in Scotland, of the said Sheriff, to messengers at arms, and to the officers of the said Sheriff, to apprehend, transmit detain, and incarcerate, and to gaolers to deliver up, receive and detain the Bankrupt until his examination is concluded, and also for his retransmission after examination to the gaol from 35
which he was delivered up, and reincarceration therein; and if the Bankrupt cannot conveniently be brought from gaol or the Sanctuary, or cannot be examined by the Sheriff there, or is by a lawful cause prevented from attending at the time and place appointed, or is in custody on a criminal charge, or is abroad, the 40
Sheriff may grant commission to take the examination; and where the Bankrupt cannot be examined, the Trustee may proceed with such other examinations as are hereinafter directed; and the Sheriff or Commissioner may, if he shall see cause, adjourn the examina-
tion

tion of the Bankrupt to an early time to be then fixed, and the Sheriff may, on the application of the Trustee, order the Bankrupt to be examined as often as he shall see fit; and the examination may, at the discretion of the Sheriff, be upon oath.

- 5 And be it Enacted, That if the Bankrupt be in any part of Great Britain and Ireland other than Scotland, the Lord Ordinary may, on petition by the Trustee, grant warrant, under the seal of the Court of Session, to all Judges, Magistrates, Justices of the Peace and Officers of the law, to apprehend and transmit him to the place
10 of his examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in prison or custody, the Lord Ordinary may grant warrant, as aforesaid, to Magistrates and gaolers, upon receiving a duplicate of such act and warrant, and an acknowledgment for the person of the Bankrupt, to deliver him
15 to the messenger or officer presenting such warrant, which they shall do accordingly; and such warrant shall be sufficient authority for the apprehension, transmission, detention and incarceration of the Bankrupt (where necessary for his safe custody) and for his re-transmission after examination to and re-incarceration in the prison
20 or custody from which he was delivered up.

68.
Warrant
where the
Bankrupt is
in England
or Ireland.

- And be it Enacted, That the Sheriff may at any time, on the application of the Trustee, order an examination of the Bankrupt's wife and family, clerks, servants, factors, law agents and others who can give information relative to his estate, either by declaration or on oath, as to the Sheriff shall seem fit; and issue his
25 warrant requiring such persons to appear; and if they refuse or neglect to appear when duly summoned, the Sheriff may issue another warrant to apprehend the person so failing to appear: Provided that where such person is not the Bankrupt, nor his wife,
30 nor one of his family, nor his clerk or servant, no warrant for apprehension shall be issued until the expiration of *Eight Days* from the service of the first warrant, unless the Trustee shall on oath specify a reasonable cause of belief that such person intends to leave the country to avoid the examination, in which case the Sheriff
35 may forthwith issue such warrant; which several warrants shall be sufficient to authorize messengers at arms, or the officers of the said Sheriff, to execute the same either within or without the territory of the Sheriff in Scotland as aforesaid; and if any person liable to be examined as aforesaid cannot conveniently attend for examination,
40 the Sheriff may grant commission to take his examination, and such examination, whether by the Sheriff or by a commissioner, may be adjourned, if seen fit, to an early time to be then fixed.

69.
Other persons
may be
examined,
and, if necessary,
apprehended.

70.
Must answer
all lawful
questions, &c.

Parties
entitled to
expenses as
Witnesses.

And be it Enacted, That the Bankrupt and the said persons shall answer all lawful questions relating to the affairs of the Bankrupt; and the Sheriff may order such persons to produce for inspection any books of account, papers, deeds, writings, or other documents in their custody relative to the Bankrupt's affairs, and cause the same or copies thereof to be delivered to the Trustee: Provided that persons other than the Bankrupt, summoned to attend for examination, shall be entitled to such allowances as witnesses are in other cases entitled to, and the amount of which, if disputed, shall be fixed by the Sheriff.

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71.
Effect of re-
fusal to
answer, &c.

And be it Enacted, That if the Bankrupt, or any of the said persons, shall refuse to be sworn, or to answer, to the satisfaction of the Sheriff, any lawful question put to him by the Sheriff or Trustee, or by any Creditor with the sanction of the Sheriff, or without lawful cause shall refuse to sign his examination, or to produce books, deeds or other documents in his custody or power relating to the estate, the Sheriff may grant warrant to commit him to prison, there to remain until he comply with the order; which warrant shall specify the question and answer, book, deed, document, or the refusal to swear or to sign the examination; and such warrant shall not be subject to the review of the Court of Session, but the Bankrupt or person incarcerated may apply by written petition (without argument) to the Lord Ordinary for a recall of the warrant; and the Lord Ordinary shall order the petition to be served on the Trustee or the said Creditor, and shall thereafter hear parties vivâ voce, and pronounce judgment.

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72.
Latent Part-
ners must
disclose
themselves.

And be it Enacted, That if any Latent Partner of a company whose estates have been sequestrated shall not, by intimation to the Interim Factor or Trustee, acknowledge that he is a partner, on or before the day appointed for the examination of the known partners, he shall not be entitled to the benefits or privileges of this Act, unless in an application for the same he satisfy the Lord Ordinary that the omission proceeded from innocent mistake, or ignorance of the proceedings, or reasonable misconception as to his liability as a partner, and unless he shall then follow out all necessary steps for remedying, as far as possible, the loss and inconvenience thence arising.

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73.
Bankrupt
may correct
his State, and
must take
Oath.

And be it Enacted, That the Bankrupt, before the close of his examination, may make such additions to or alterations upon the state of his affairs as may have occurred to him to be necessary to give a full view of his affairs, which state, with the additions and alterations, shall be subscribed by the Sheriff and the Bankrupt; and the Bankrupt shall then take the following oath, which shall be

40

be

be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said state; and where the Bankrupt is a partner with others, and examined respecting the affairs of the partnership, the words of the oath shall so far be varied as to make it applicable to the case; and when he is by law entitled to make an affirmation in place of an oath, it shall be sufficient to take his solemn affirmation upon the matters contained in the said oath, which shall be engrossed and subscribed as aforesaid:

“I DO, in the presence of Almighty God, and as I shall answer to Oath.

God at the great Day of Judgment, solemnly swear, That the state of my affairs subscribed by me, as relative hereto, contains a full and true account, to the best of my knowledge and belief, of all the debts of whatever nature due to me, and of all my estate and effects, heritable and moveable, real and personal, wherever situated (the necessary wearing-apparel of myself, my wife and family, only excepted), as well as of all claims which I am entitled to make against any person or persons whatsoever, and of all estate in expectancy, or means of whatever kind to which I have an eventual right by contract of marriage, trust-deed, settlement, deed of entail, or otherwise; and that the said state likewise contains a full and true account of all debts due by me, or demands upon me; and that I have delivered up the whole books, documents, accounts, title-deeds, and papers of every kind belonging to me which in any way relate to my affairs, and which were or are in my possession or under my power; and that I have made a full disclosure of every particular relating to my affairs: And further I promise and swear, That I will forthwith reveal all and every other circumstance or particular relative to my affairs which may hereafter come to my knowledge, and which may tend to increase or diminish the estate in which my Creditors may be interested, directly or indirectly.

So help me GOD.”

And be it Enacted, That within *Fourteen* Days after the examination of the Bankrupt, the Trustee shall prepare a Report, setting forth the state of the Bankrupt's affairs, and an estimate of what it may produce, which Report he shall exhibit at the meeting of the Creditors to be held after the examination of the Bankrupt, and give all explanations relative thereto; and the Creditors then assembled may receive any offer of composition as hereinafter provided, and may, either at this or any other meeting called for the purpose, give directions for the recovery, management and disposal of the estate, and as to whether the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale.

74.
Meeting to be held and Trustees to prepare Report after Bankrupt's examination.

75.
Meetings may
be called at
any time.

And be it Enacted, That the Trustee or any Commissioner may at any time call a meeting of the Creditors, and the Trustee shall call such meeting when required by *One-fourth* in value of the Creditors ranked on the estate.

76.
Advertisements of
Meetings.

And be it Enacted, That wherever it is in this Act directed that a meeting of Creditors shall or may be called or held, a notice of the day, hour, place and purpose of the meeting shall be advertised in the Edinburgh Gazette *Fourteen* Days at least before the day of the meeting, and such meeting may be adjourned to the following day. 5 10

77.
To what
Creditors
Notices
through Post
Office not to
be sent.

And be it Enacted, That it shall not in any case be necessary to send any notification, as is by this Act directed to be sent, by post to any Creditor whose debt shall be under *Twenty Pounds*, unless such Creditor shall have given directions in writing that such notification shall be sent; and no notification shall be sent to any Creditor who has directed that none shall be sent. 15

78.
Removal or
resignation of
Trustee.

And be it Enacted, That a majority in number and value of the Creditors present at any meeting to be called by an advertisement published in the Edinburgh Gazette at least *Fourteen* Days before such meeting, specifying the purpose of the meeting, may remove the Trustees or accept of his resignation; and *One-fourth* of the Creditors in value may at any time apply by petition to the Lord Ordinary for removal of the Trustee; and the Lord Ordinary shall order the said petition to be served on the Trustee, and intimated in the Edinburgh Gazette: And if the Lord Ordinary shall be satisfied that sufficient reason has been shown, he shall remove the Trustee, and appoint a meeting of the Creditors to be held for devolving the estate on the Trustee next in succession, or electing a new Trustee: And if the Trustee shall die, resign or be removed, or remain at any one time for *Three* Months furth of Scotland, any Commissioner or any Creditor claiming and entitled to be ranked, or ranked on the estate, may apply to the Sheriff for an order to hold a meeting for devolving the estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant warrant to hold such meeting at a certain time and place, which shall be advertised in the Edinburgh Gazette by the Commissioner or Creditor so applying; and at the time and place so appointed, the Creditors at such meeting may devolve the estate on the Trustee next in succession, or elect a new Trustee; and where the estate is devolved on such Trustee, the said Creditors shall fix the amount for which he shall find security, and on a bond being lodged the Sheriff shall confirm him, and an act and warrant shall be issued and recorded in the same way and to the same effect as on the first election 20 25 30 35 40

election of a Trustee, and in like manner in all cases of a new election of a Trustee, the procedure shall take place in the same way as is hereinbefore provided for the case of the first election; and the succeeding or the new Trustee shall be vested with the powers, and shall perform the duties, and be subject to the same rules as are herein before provided, and shall call to account the former Trustee or his heirs and representatives.

And be it Enacted, That the moveable estate and effects of the Bankrupt, wherever situated, so far as attachable for debt, shall, by virtue of the act and warrant of confirmation in favour of the Trustee, be transferred to and vested in him or any succeeding Trustee for behoof of the Creditors, absolutely and irredeemably as at the date of the first deliverance on the Sequestration, with every right, title, and interest which was then in the Bankrupt, to the same effect as if actual delivery or possession had been obtained or intimation made at that date, subject always to such preferable securities as existed at the date of the Sequestration, and are not null or reducible.

79.
Vesting of the
moveable
Estate in the
Trustee.

And be it Enacted, That the whole heritable estates belonging to the Bankrupt in Scotland shall, by virtue of the said act and warrant be transferred to and vested in the Trustee or any succeeding Trustee for behoof foresaid, absolutely and irredeemably, as at the date of the first deliverance on the Sequestration, to the same effect as if a decree of adjudication in implement of sale, as well as a decree of adjudication for payment and in security of debt, subject to no legal reversion, had been pronounced in favour of the Trustee, and recorded at the date of the first deliverance on the Sequestration, and as if a poinding of the ground had then been executed, subject always to such preferable securities as existed at the date of the Sequestration, and are not null and reducible; and the right of the Trustee shall not be challengeable on the ground of any prior inhibition (saving the effect which such inhibition may be entitled to in the ranking of the Creditors): Provided always, That such transfer and vesting of the heritable estate shall have no effect upon the rights of the superior, nor upon any question of succession between the heir and executor of any Creditor claiming on the sequestrated estate, nor upon the rights of the Creditors of the ancestor (except that the act and warrant of confirmation shall operate in their favour as complete diligence); and if the right to any part of the Bankrupt's heritable estate be entailed or otherwise limited, the right vested in the Trustee shall be effectual only to the extent of the interest in the estate which the Bankrupt might legally convey, or which the Creditors might validly attach.

80.
Vesting of
the heritable
Estate in the
Trustee with
all right, title
and interest
which was
then in the
Bankrupt.

Limitations
and qualifica-
tions of the
Trustee's
right.

81.
Estates in
England,
Ireland and
other British
dominions.

And be it Enacted, That all lands, tenements and hereditaments in England, Ireland or in any of Her Majesty's dominions, to which the Bankrupt is entitled, and all interest to which he is entitled in any such lands, tenements or hereditaments, and of which he might, according to the laws of England, Ireland, or other Her Majesty's dominions, have disposed, and all such lands tenements and hereditaments which he shall purchase, or which shall descend, be devised, revert to, or come to the Bankrupt before he shall have obtained his discharge, and all deeds, papers and writings respecting the same, shall, by virtue of the act and warrant of confirmation, vest in and belong to the Trustee for the purposes of this Act, as at the date of the Sequestration: Provided that where, according to the laws of England, Ireland or other Her Majesty's dominions, any deed or conveyance would require registration, enrolment or recording, the act and warrant of confirmation shall be so registered, enrolled or recorded according to the laws of England, Ireland or other Her Majesty's dominions; and if any purchase is made by any person for valuable consideration, and without notice of the Sequestration, prior to the registration, enrolment, or recording of the said act and warrant of confirmation, such purchase shall not be invalidated by the existence of such act and warrant, or the subsequent registration, enrolment or recording thereof.

82.
Acquisitions
of Bankrupt
after the Se-
questration to
belong to the
Creditors.

And be it Enacted, That if any estate, wherever situated, shall, after the date of the Sequestration, and before the Bankrupt has obtained his discharge, be acquired by him, or descend or come to him, the same shall ipso jure fall under the Sequestration, and the full right and interest accruing thereon to the Bankrupt shall be held as transferred to and vested in the Trustee for the purposes of this Act; and the Trustee shall, on coming to the knowledge of the fact, present a petition setting forth the circumstance to the Lord Ordinary, who shall appoint intimation to be made in the Edinburgh Gazette, and require all concerned to appear within a certain time for their interest; and after the expiration thereof, and no cause shown to the contrary, the Lord Ordinary shall declare all right and interest in such estate which belongs to the Bankrupt to be vested in the Trustee, as at the date of the acquisition thereof or succession thereto, to the same effect as is hereinbefore enacted; in regard to the other estates; and the proceeds thereof when sold shall be divided in terms of this Act; and if the Bankrupt do not immediately notify to the Trustee that such estate has been acquired or has come to him as aforesaid, he shall forfeit all the benefits of this Act, and it shall be competent to the Trustee to examine him as aforesaid in relation thereto: Provided always, That the rights of the Creditors of the person from whom such estate shall come or descend to the Bankrupt shall be reserved entire.

And

And be it Enacted, That the Sequestration shall, as at the date of the first deliverance, be equivalent to a decree of adjudication of the heritable estates of the Bankrupt for payment of the whole debts of the Bankrupt, principal and interest, accumulated at the date of the first deliverance, and when it is dated within year and day of any effectual adjudication, the estate shall be disposed of under the Sequestration, according to the provisions of this Act: Provided always, That nothing herein contained shall affect the rights of any heritable Creditor holding a power of sale preferable to the Trustee.

83.
Sequestration equivalent to an Adjudication in Competition.

And be it Enacted, That the Sequestration shall, as at the date of the first deliverance, be equivalent to an arrestment in execution and decree of forthcoming, and to an executed or completed poinding; and no arrestment or poinding executed of the funds or effects of the Bankrupt on or after the *Sixtieth* Day prior to the Sequestration, or executed after the date of the Sequestration shall be effectual; and such funds or effects or the proceeds of such effects, if sold, shall be made forthcoming to the Trustee: Provided that the arrester or poinder, before the date of the Sequestration, who shall be thus deprived of the benefit of his diligence, shall have preference out of such funds or effects for the expense bonâ fide incurred by him in such diligence.

84.
And to Arrestment and Poinding.
Diligence Sixty Days before Sequestration, or after it ineffectual.

Expenses of Diligence.

And be it Enacted, That where the Sequestration of the estates of a deceased Debtor is dated within *Seven* Months after his death, any preference or security for any prior debt acquired by legal diligence on or after the *Sixtieth* Day before his death, or subsequent to his death, and any preference or security acquired for a prior debt by any act or deed of the Debtor, which has not been lawfully completed more than at least *Sixty* Days before his death, and any confirmation as Executor Creditor after the Debtor's death, shall in these several cases be of no effect in competition with the Trustee; and the estates and effects over which such preferences or securities shall have been obtained, or of which confirmation shall have been expedited, shall belong to the Trustee: Provided always, That the Creditor who is so deprived of the benefit of his diligence or confirmation, shall have preference for payment out of the said estates or effects of the expenses bonâ fide incurred by him in such diligence or confirmation.

85.
Preferences in case of a deceased Debtor.

And be it Enacted, That all payments and preferences obtained by or granted to prior Creditors, and all acts done or deeds granted by the Bankrupt after the date of the Sequestration and before his discharge out of or in relation to the estate (unless with the consent of the Interim Factor or Trustee) shall in the event of Sequestration

86.
Acts and Payments by Bankrupt after Sequestration null, except in certain cases.

tion being awarded be null and void; and the Trustee shall be entitled to such preference and to any money after such date, so paid, deducting any expense bonâ fide incurred; but if a bonâ fide purchaser is in possession of moveable effects received from the Bankrupt after the Sequestration, and when ignorant thereof, for a price paid, or which he is ready to pay, he shall not be obliged to restore the effects; and if a Debtor, when ignorant of the Sequestration, have paid his debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a second time to the Trustee; and if the possessor of any bill or promissory note, with recourse on other parties, which is payable by the Bankrupt, or of a security for a debt due by the Bankrupt over any part of the estate of the Bankrupt, shall have received payment of his debt from the Bankrupt in ignorance of the Sequestration, and given up such bill, promissory note or security to the Bankrupt, such person shall not be liable to repay to the Trustee the amount so received, unless the Trustee shall replace him in the situation in which he stood, or reimburse him for any loss or damage.

87.
Subjects im-
properly in-
cluded in
Sequestration
may be struck
out.

And be it Enacted, That any person claiming right to any estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such estate struck out of the Sequestration; and the Lord Ordinary shall order the Trustee to answer within a certain time, and on expiration of such time he shall proceed to dispose of the application.

88.
Trustee may
complete
feudal Titles,
or grant such
Rights as
Bankrupt
could do.

And be it Enacted, That the Bankrupt shall, if required, grant all deeds necessary for recovering and feudally vesting his estates in the Trustee for the purposes of this Act; and if the Bankrupt's title to any estate has not been completed, the Trustee may complete titles in his own person, whom failing in favour of any Trustee who may succeed him, for behoof of the Creditors, or in the person of the Bankrupt; and in no case shall the title be completed averse to the imperfect right or title or security of any Creditor, but shall be available only for behoof of the general body of the Creditors; and superiors shall, if required, enter the Trustee, or the purchaser from him, in terms of law; and the Trustee may, without making up a feudal title in his person, and without concurrence of the Bankrupt grant conveyances of the heritable estate belonging to the Bankrupt, with such procuratories, precepts or other warrants as the Bankrupt might competently have granted, which conveyances shall be as effectual to the purchaser as if they had been granted by the Bankrupt with concurrence of the Trustee, and shall not be affected by any inhibition against the Bankrupt, reserving the effect of such inhibition in the ranking.

And

And be it Enacted, That where Sequestration is awarded against the estate of a person after his death, and his successor has made up a title to his heritable estate, the Trustee may apply by petition to the Lord Ordinary, praying that such estate shall be transferred to and vested in him; and the Lord Ordinary shall order the petition to be served upon such successor, and require him to answer the same within *Fourteen Days*; and on such petition and deliverance being recorded in the Register of Inhibitions, it shall have the effect of an Inhibition; and if on expiration of that period no cause is shown to the contrary, the Lord Ordinary shall declare such estate to be transferred to and vested in the Trustee as at the date of the Sequestration, to the same effect as is hereinbefore provided, in regard to the act and warrant of confirmation; and the Trustee shall within *Eight Days* thereafter cause such decree to be recorded in the Register of Abbreviates of Adjudications, as before provided.

89.
Trustee may get Property transferred to him, although Heir of Bankrupt has made up Titles.

Decree to be recorded in Register of Adjudications.

And be it Enacted, That if the Creditors at the meeting held after the examination of the Bankrupt, or at any other meeting called for the purpose, resolve that the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale, and if such resolution has been made before a Creditor holding a power of sale shall have commenced proceedings for sale, or if such proceedings, after being commenced at the date of such resolution, have thereafter been unduly delayed, such Creditor shall not be entitled to interfere with the sale by the Trustee.

90.
Circumstances in which Heritable Creditors not to interfere with Sale by Trustee.

And be it Enacted, That if a public sale of the heritable estate be resolved on, such sale shall be made by auction at the upset price, and in the manner which shall be fixed by the Trustee, with consent of the Commissioners; and if the estate be sold, the Trustee, with consent of the Commissioners, shall grant a disposition to the purchaser, which shall have the effect of conveying whatever right is in the Trustee, under burden of the securities preferable to the right of the Trustee, but shall discharge the estate of all securities not preferable to the right of the Trustee, and of all diligence not completed at the date of the Sequestration.

91.
Public Sale of Heritable Subjects;

Effect on Securities.

And be it Enacted, That if a Creditor holding an heritable security, with a power to sell, concur with the Trustee in bringing the estate to sale, the Trustee shall sell the same in his own name, and the articles of roup and conveyance to the purchaser shall be executed by the Trustee, with consent of the said Creditor and the Commissioners, and the price shall be paid by the purchaser to the parties legally entitled thereto, and, in so far as not paid at the time of the delivery of the conveyance, it shall be consigned in the bank in which the money of the sequestrated estate is deposited; which

92.
Heritable Creditor may allow Trustee to sell.

payment or consignment of the price shall free and discharge the estate sold and the purchaser from all securities preferable to that of the said consenting Creditor, in so far as the debts in such securities are satisfied by such payment or consignment, and also from the security of the consenting Creditor, whether the debt in such security be satisfied or not, and from all securities postponed to the security of such Creditor. 5

93.
Heritable
Creditor, with
power to sell,
may sell.

And be it Enacted, That a Creditor who holds an heritable security preferable to the right of the Trustee, with a power to sell, may sell in terms of his Bond, notwithstanding the Sequestration; and it shall be competent to the Trustee to concur therein, in order to fortify the title; and he, or any posterior heritable Creditor preferable to him may, by petition to the Lord Ordinary or to the Sheriff, compel the Creditor and the purchaser to account for any reversion of the price. 10 15

94.
Judicial Sale.

Disposal of
Price.

And be it Enacted, That if the Creditors assembled as aforesaid shall resolve on a judicial sale, the Trustee shall institute such an action, which may be carried on as to a part or the whole of the estate, and without any other proof of Bankruptcy than the act of Sequestration; and every heritable Creditor in possession shall be cited upon induciæ of *Fifteen* Days, whether within Scotland or not, and it shall not be necessary to call any other parties; and on the estate being sold, the price, after satisfying any securities preferable to the right of the Trustee, shall be paid by the purchaser to the Trustee; and the purchaser shall, upon payment of the price, receive a discharge from the Trustee, which, with the decree of sale, shall free and discharge the estate in the same way as a decree of sale in an action of ranking and sale. 20 25

95.
Expenses
as against
Heritable
Creditors.

And be it Enacted, That no part of the expenses of the Sequestration, nor of the sale in any way of the heritable estate, nor of the Trustee's Commission, shall be payable out of such part of the price as may be necessary to discharge the securities on the heritable estate preferable to the right of the Trustee; and no heritable Creditor, or Creditor preferable to the Trustee on the heritable estate, shall be liable for the expense of the Sequestration, or the Trustee's commission, nor of such sale, unless he shall have consented to the sale, in which case he shall be liable for the expense of the sale. 30 35

96.
Sequestration
not to affect
Heritable
Creditor's
right to
Poinding
Ground to a
limited ex-
tent.

And be it Enacted, That no Creditor who holds a security over the heritable estate preferable to the right of the Trustee shall be prevented by the Sequestration from taking possession, or executing a poinding of the ground, nor shall such poinding be available for the payment of the principal debt, nor for more than the current term's 40

term's interest, and *One Year's* arrear of the interest of the said debt, nor attach any moveables belonging to the Bankrupt, unless the summons or letters shall have been executed prior to the date of the Sequestration.

5 And be it Enacted, That nothing herein contained shall affect the landlord's right of hypothec.

97.
Landlord's
Hypothec
saved.

And be it Enacted, That the Lord Ordinary or Sheriff, on cause shown, may order that, for a period not exceeding Three Months from the date of the order, all letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the officers acting under him, to the Interim Factor or Trustee, to be opened in presence of the Sheriff, after written notice to the Bankrupt to attend, if within Scotland; and in case the letters shall relate in whole or in part to the estate, they shall be placed in such custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on cause shown, renew such order for a like period as often as shall be necessary.

98.
Interim Fac-
tor or Trustee
may be au-
thorized to
receive and
open Post
Letters.

And be it Enacted, That the Trustee may, with consent of the Commissioners, compound and transact or refer to arbitration any questions which may arise in the course of the Sequestration regarding the estate, or any demand or claim made thereon, and the compromise, transaction or decree-arbitral shall be binding on the Creditors and the Bankrupt.

99.
Trustee and
Commis-
sioners may
submit and
transact.

And be it Enacted, That where any estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but the Interim Factor, Sheriff Clerk if acting as Factor, Trustee or Commissioners, shall not be entitled to purchase.

100.
Creditors may
purchase.

And be it Enacted, That the whole estate when reduced into money shall, after paying all necessary charges and a commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the date of the Sequestration, ranked according to their several rights and interests.

101.
Realized
Estate to be
a Fund of
Division.

And be it Enacted, That where there are sufficient funds realized, the first dividend shall be payable on the first lawful day after the expiration of *Eight Months* from the date of the Sequestration; and the second dividend shall be payable on the first lawful day after the expiration of *Twelve Months* from the said date of the Sequestration; and a dividend shall be payable on the first lawful day after the expiration of *Four Months* from the date of the payment of the imme-

102.
Times at
which Divi-
dends to be
paid.

diately preceding dividend, until the whole funds of the Bankrupt be distributed, subject always to the provisions hereinafter made.

103.
Time within
which Creditors
to produce
oaths, &c.,
in order to
receive pay-
ment of
Dividends.

And be it Enacted, That to entitle any Creditor to payment of the first dividend, he shall produce, as hereinbefore directed, his oath and grounds of debt at least *Two Months* before the time fixed for payment of the first dividend : And to entitle any Creditor to payment of the second dividend, he shall produce as aforesaid his oath and grounds of debt at least *Two Months* before the time fixed for payment of the second dividend : And to entitle a Creditor to payment of any of the subsequent dividends, he shall produce as aforesaid his oath and grounds of debt at least *Two Months* before the day fixed for payment of the dividend which he means to claim : Provided, that if a Creditor has not produced his oath and grounds of debt in time to share in the first dividend, but has done so in time to share in the second dividend, he shall be entitled, on occasion of payment of the second dividend, to receive out of the first of the fund (if there be sufficient for that purpose) a sum equal to the dividend he would have drawn, if he had claimed in time for the first dividend ; and the same rule shall apply as to all subsequent dividends.

104.
First Divi-
dend.
Trustee to
make up and
exhibit to
Commission-
ers State of
Funds.

Commission-
ers to resolve
as to payment
of Dividend,
&c.

And be it Enacted, That immediately on the expiration of *Six Months* from the date of the Sequestration, the Trustee shall proceed to make up a state of the whole estate of the Bankrupt, of the funds recovered by him, and of the funds outstanding (specifying the cause why they have not been recovered), and of his intrusions, and generally of his management ; and within *Fourteen Days* after the expiration of the said *Six Months*, the Commissioners shall meet and examine the said state, and ascertain whether the Trustee has lodged the monies recovered by him in Bank or not, and if he has failed to do so, they shall debit him with a sum at the rate of *Twenty Pounds* on every *Hundred Pounds* not so lodged, and so after that rate on any larger or smaller sum, being not less than *Fifty Pounds* ; and they shall audit his accounts and settle the amount of his commission, and authorize him to take credit for such commission in his accounts with the estate ; and they shall certify, by a writing under their hands engrossed in the Sederunt Book, the balance due to or by the Trustee in his account with the estate as at the expiration of the said *Six Months* ; and they shall declare whether any and what part of the net produce of the estate, after making a reasonable deduction for future expenses, shall be divided among the Creditors.

105.
Trustee to
make up List
of Creditors
entitled or not
entitled to
payment of
Dividend.

And be it Enacted, That the Trustee shall also within the said *Fourteen Days*, examine the oaths and grounds of debt, and in writing reject or admit them, or require further evidence in support thereof ;

thereof; and in case he shall reject any claim, he shall in his deliverance state the grounds of such rejection; and he shall complete the list of the Creditors entitled to draw a dividend, specifying the amount of their debts, with interest thereon to the date of the
 5 Sequestration, and distinguishing whether they are ordinary Creditors, or preferable or contingent; and he shall make up a separate list of any Creditors whose claims he has rejected in whole or in part.

And be it Enacted, That the Trustee shall give notice in the
 10 Edinburgh Gazette published next after expiration of the said *Fourteen* Days, of the time and place of the payment of the dividend, and also notify the same by letters put into the Post Office on or before the first lawful day after the said *Fourteen* Days, addressed to each of the Creditors; and where he has rejected any claim, he shall notify the
 15 same to the claimant by letter as aforesaid, which shall also contain a copy of his deliverance, and specify the amount of dividend to which the rejected claimant would be entitled if not rejected, or as near to the amount thereof as circumstances will permit; and a Certificate by the Trustee, or an execution by a messenger or Sheriff
 20 officer that such letters have been put into the Post Office, shall be sufficient evidence thereof: And if any Creditor be dissatisfied with the decision of the Trustee, he may appeal by a short written note to the Lord Ordinary or to the Sheriff; but if no such note be lodged with and marked by the Bill Chamber or Sheriff Clerk (as the case
 25 may be) before the expiration of *Thirty* Days from the date of the publication in the Gazette of the said notice, the decision of the Trustee shall be final and conclusive, so far as regards that dividend; and in case the claim have been rejected, such decision shall be without prejudice to any new claim being afterwards made in
 30 reference to future dividends, but which new claim shall not disturb prior dividends.

106.
And to publish and send Notices of payment of Dividend.

Creditors may appeal within a limited period.

And be it Enacted, That the Trustee shall, before the expiration of *Eight* Months from the date of the Sequestration, make up a scheme of division of the fund directed by the Commissioners to be
 35 divided, and apportion the same, according to their respective rights, among those Creditors whose claims have been sustained by him or by the Lord Ordinary or Sheriff, or who shall have appealed against his decision, and which scheme shall be patent to all concerned.

107.
Trustee to make up Scheme of Division.

And be it Enacted, That on the said first lawful day after expiration of *Eight* Months from the date of Sequestration, and at the
 40 place appointed, the Trustee shall pay to the Creditors the dividends allotted to them respectively in terms of the said scheme; and he shall lodge the dividends apportioned to those claims which are
 297. under

108.
Dividends to be paid, and those disputed or claimed by contingent Creditors to be lodged in Bank.

under appeal, but not finally determined, and the dividends effeiring to contingent Creditors, or other claimants not then entitled to uplift the same, in the Bank appointed by the Creditors, or, failing such appointment, in one of the said Banks in a separate account, or if the money be deposited in Bank he shall transfer it to a separate account, in name of himself and the Commissioners, to remain therein until the said appeals be disposed of, or the dividends are payable. 5

109.
Second Dividend.

Trustee to make up State, &c. and Commissioners to resolve as in case of first Dividend.

And be it Enacted, That on the expiration of Ten Months from the date of Sequestration, the Trustee shall again make up a state as hereinbefore provided, which he shall within Fourteen Days after the expiration of the said *Ten* Months exhibit to the Commissioners, who shall meet and adjust the state and perform the other acts and duties incumbent on them in manner before specified, and direct a second dividend to be paid, if there shall be funds to pay the same; and if the Commissioners shall direct a dividend to be paid, the Trustee shall also make up lists of the Creditors who are entitled and who are not entitled to payment of the dividend, and frame a scheme of division, and notify in the Gazette and by letters; and any Creditor may appeal, all as is hereinbefore provided for the first dividend. 10 15 20

110.
Dividend to be paid.

And be it Enacted, That on the said first lawful day after the expiration of *Twelve* Months from the date of Sequestration, the Trustee shall make payment of the second dividend to those Creditors who are entitled to, and shall lodge the dividends disputed or not then payable, all as hereinbefore provided for the first dividend. 25

111.
Subsequent Dividends.
Same proceedings as in prior Dividends,

And be it Enacted, That the like procedure shall be followed out as to subsequent dividends at similar intervals of time thereafter, in order that a dividend may be made on the first lawful day after the expiration of every *Four* Months from the day of payment of the immediately preceding dividend, until the whole funds of the Bankrupt shall be divided. 30

112.
Proceedings when Commissioners postpone the Dividend.

And be it Enacted, That if it shall appear to the Commissioners that a dividend ought to be postponed, they shall authorize the Trustee to give a notice to that effect in the next Edinburgh Gazette; provided that the state of the funds shall be made up, and the accounts of the Trustee audited at the time and in the manner before directed; and circulars containing a copy or abstract of the said state shall be sent by post to the Creditors, unless the Commissioners shall otherwise direct. 35

And

113.
Winding up
of Estate.

And be it Enacted, That if, on the lapse of Twelve Months from the date of Sequestration, it shall appear to the Trustee and Commissioners expedient to sell the heritable or moveable estates not disposed of, and any interest which the Creditors have in the outstanding debts and
5 consigned dividends, they shall fix a day for holding a meeting of the Creditors to take the same into consideration; and the Trustee besides advertizing the same in the Edinburgh Gazette shall, *Fourteen* Days before the day appointed, send by post to each Creditor claiming on the estate a notice of the time and place of the
10 meeting, with a valuation of the estate and effects, and a list of the outstanding debts and of the consigned dividends; and if *Three-fourths* of the Creditors in value assembled at the meeting shall decide in favour of a sale in whole or in lots, the Trustee shall sell the same by auction, after notice thereof published at least *Once* in
15 the Edinburgh Gazette *One* Month previous to the sale, and in such other newspapers as the Creditors at the meeting shall appoint.

114.
Discharge of
Bankrupt on
Composition.

Offer may be
made at the
Meeting for
election of
Trustee.

And be it Enacted, That at the meeting for election of Trustee, the Bankrupt, or his friends, or, in case of his decease, his successors, and, in case of a Company, one or more of the partners thereof,
20 may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if the *majority* of the Creditors in number, and *Nine-tenths* in value present at such meeting shall resolve that the offer and security shall be entertained for consideration, the Trustee or Interim Factor or Sheriff Clerk (as the
25 case may be) shall forthwith advertise in the Edinburgh Gazette a notice that an offer of composition has been so made and entertained, and that it will be decided upon at the meeting to be held after the examination of the Bankrupt, and shall specify the hour, day and place, and also transmit, by post, letters to each of the
30 Creditors claiming on the estate, or mentioned in the Bankrupt's state of affairs, containing a notice of such resolution, and of the day and hour at which, and the place where the said meeting is to be held, and specifying the offer and security proposed, and giving an abstract of the state of the affairs and of the valuation of the
35 the estate, so far as the same can be done to enable the Creditors to judge of the said offer and security.

115.
Offer, if entertained, to be
disposed of at
the meeting
after the
Bankrupt's
examination

And be it Enacted, That if, at the meeting held after the examination of the Bankrupt, a majority in number, and *Nine-tenths* in value of the Creditors there assembled shall accept the
40 said offer and security, a Bond of Caution for payment of the composition executed by the Bankrupt, or his successors (as the case may be), and the proposed Cautioner, shall be forthwith lodged in the hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a report of the resolution of the meeting,

Lord Ordinary
or Sheriff to
approve.

with the said bond, to the Bill Chamber Clerk or Sheriff Clerk, in order that the approval of the Lord Ordinary or Sheriff (whichever may be selected by the Trustee) may be obtained thereto; and if the Lord Ordinary or the Sheriff, after hearing any objections by Creditors, shall find that the offer, with the security, has been 5
duly made, and is reasonable, and has been assented to by a *majority* in number, and *Nine-tenths* in value, of all the Creditors assembled at the said meeting, he shall pronounce a deliverance approving thereof; provided that he shall hear any objection by opposing Creditors; and if he shall refuse to sustain the offer or 10
reject the vote of any Creditor, he shall specify the grounds of refusal or rejection.

116.

Offer on Composition may also be made at Meeting after Bankrupt's examination.

And be it Enacted, That in like manner at the meeting held after the examination of the Bankrupt, or at any subsequent meeting called for the purpose by the Trustee, with the consent of the Commis- 15
sioners, the Bankrupt or his friends, or, in case of his decease, his successors, and, in the case of a Company, one or more of the partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if a *majority* in number and *Four-fifths* in value of the Creditors present 20
shall resolve that the offer and security shall be entertained for consideration, the Trustee shall call another meeting, to be held at a certain hour on a specified day, being not less than *Twenty-one* Days thereafter, and at a specified place; and shall, *Fourteen* Days at least before such other meeting, advertise a notice of the same 25
in the Edinburgh Gazette, and send by post letters addressed to each of the Creditors who have claimed on the estate, or are mentioned in the Bankrupt's state of affairs, which letters shall contain a notice of such resolution, and of the hour, day and place, and purpose of the meeting, and specify the offer and the security proposed, and 30
give an abstract of the state of the affairs and valuation of the estate, so far as can be done, to enable the Creditors to judge of the said offer; and if, at the meeting so called, a *majority* in number and *Four-fifths* in value of the Creditors present shall accept the said offer and security, a Bond of Caution shall be lodged, and a 35
report made, and a deliverance pronounced, all in the same manner and to the same effect as is hereinbefore provided.

117.

Bankrupt, on making Declaration or Oath, to obtain Discharge.

And be it Enacted, That on such deliverance being pronounced approving of the composition in either of the cases above specified, the Bankrupt shall make a declaration, or, if required by the Trustee 40
or any Creditor, an oath before the Lord Ordinary or the Sheriff (as the case may be) that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive

collusive agreement or transaction, to obtain the concurrence of any Creditor to the said offer and security; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by a lawful cause prevented from occurring before the

5 Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be) on being satisfied with the said oath or deliverance, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or

10 for which he was liable, at the date of the Sequestration, and shall declare the Sequestration to be at an end, and the Bankrupt re-invested in his estate (reserving always the claims of the Creditors for the said composition against him and the Cautioner); and the Bond of Caution shall be recorded in the Books of the Court

15 of Session or Sheriff Court, when the said deliverance is pronounced by the Sheriff, and an extract thereof, signed by the Sheriff Clerk, shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same without enrolment to the Lord Ordinary, and the Lord Ordinary shall confirm the same, and the said deli-

20 verance of the Lord Ordinary, and the deliverance of the Sheriff when confirmed as aforesaid, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and Her Majesty's other dominions.

25 And be it Enacted, That before the Lord Ordinary or the Sheriff shall pronounce the said deliverance, the Commissioners shall audit the accounts of the Trustee, and ascertain the balance due to or by him, and fix the remuneration for his trouble, subject to the review of the Lord Ordinary or the Sheriff, if complained of by the Trustee,

30 the Bankrupt, or any of the Creditors; and the expense attending the Sequestration and such remuneration shall be paid or provided for, to the satisfaction of the Trustee and Commissioners, before the said deliverance is pronounced.

118.
Trustee's
Accounts to
be audited,
and provision
made for his
Expenses and
Commission.

And be it Enacted, That notwithstanding such offer of composition

35 and proceedings consequent thereon, the Sequestration shall continue, and the Trustee shall proceed in the execution of his duty as if no such offer had been made, until the said deliverance by the Lord Ordinary be pronounced, when the Sequestration shall cease and be at an end, and the Trustee be exonerated and discharged:

40 Provided nevertheless, That the Trustee and his Cautioner shall be liable, on summary petition to the Lord Ordinary or Sheriff, by the Bankrupt or his Cautioner for the composition, to account for his intromissions and other acts as Trustee.

119.
Sequestration
to go on, not-
withstanding
offer of Com-
position.
On approval,
Sequestration
to cease.

120.
Bankrupt and
Cautioner not
to be entitled
to object to
Claims, &c.

And be it Enacted, That neither the Bankrupt nor the Cautioner for the composition shall be entitled to object to any debt which the Bankrupt has given up in the state of his affairs as due by him, or admitted without question to be reckoned in the acceptance of the said offer of composition ; nor to object to any preference or security held by any Creditor, unless in the offer of composition such preference or security, shall be stated as objected to, and notice in writing given to the Creditor holder thereof. 5

121.
Claims against
Cautioner
limited in
certain cases
to Two Years.

And be it Enacted, That no person who has not produced an oath as a Creditor before the date of the said deliverance on the offer of composition shall be entitled to make any demand against the Cautioner after the space of *Two Years* from the date of such deliverance, reserving to such Creditor his claim for the composition against the Bankrupt and his estate. 10

122.
If offer of
Composition
rejected, no
other to be
entertained,
unless Nine-
tenths of Cre-
ditors ranked
agree to do so.

And be it Enacted, That if an offer of composition has been made and rejected, or has become ineffectual, no other offer of composition shall be entertained unless *Nine-tenths* in number and value of all the Creditors ranked on the estate shall assent in writing to such offer ; which offer shall state the amount of composition and the terms of payment, and be subscribed by the Cautioner proposed, in which case a meeting shall be called by the Trustee for finally disposing of the same ; and if, at the meeting so called, a *majority* in number and *Nine-ninths* in value of the Creditors present shall accept the said offer and security, and the same shall be assented to by *Nine-tenths* in value of all the Creditors who have produced oaths as aforesaid, a Bond of Caution shall be lodged, and a report made, and deliverances pronounced, and the other proceedings shall take place and have effect in the same manner as is hereinbefore provided for other offers of composition. 15 20 25

123.
Discharge
without Com-
position.
Proceedings
for this pur-
pose.

And be it Enacted, That the Bankrupt may, at any time after the meeting held after his examination, petition the Lord Ordinary or the Sheriff to be finally discharged of all debts contracted by him before the date of the Sequestration, provided that every Creditor who has produced his oath as aforesaid shall concur in the petition ; and the Bankrupt may also present such petition on the expiration of *Eight Months* from the date of the Sequestration, provided a *majority* in number and *Four-fifths* in value of the Creditors who have produced oaths concur in the petition ; and the Lord Ordinary or the Sheriff (as the case may be) shall in either case order the petition to be intimated in the *Edinburgh Gazette* ; and if, at the distance of not less than *Twenty-one Days* from the publication of such intimation, and on evidence being produced of concurrence as aforesaid, there be no appearance to oppose the same, the Lord Ordinary 30 35 40

nary or the Sheriff (as the case may be) shall pronounce a deliverance finding the Bankrupt entitled to a discharge; but if appearance be made by any of the Creditors, or by the Trustee, the Lord Ordinary or the Sheriff (as the case may be) shall judge of any objections
 5 against granting the discharge, and either find the Bankrupt entitled to the discharge, or refuse the same, or annex such conditions thereto as the justice of the case may require.

And be it Enacted, That if the Bankrupt shall be found entitled to his discharge, he shall make a declaration, or, if required by the
 10 Trustee or any Creditor, an oath before the Lord Ordinary or Sheriff, that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, nor made or promised any payment, nor entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor
 15 to his discharge; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by lawful cause prevented from coming before the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be),
 20 on being satisfied with the said oath or declaration, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration; and when the said deliverance is pronounced by the Sheriff, an extract thereof, signed by the Sheriff Clerk, shall forthwith
 25 be transmitted to the Clerk of the Bill Chamber, who shall present the same, without enrolment, to the Lord Ordinary, and the Lord Ordinary shall confirm the same by a deliverance, and the said deliverance by the Lord Ordinary, as well as the said deliverance by the Sheriff, when confirmed as aforesaid, shall operate as a com-
 30 plete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and all Her Majesty's other dominions.

124.
 Bankrupt to make a Declaration or Oath before obtaining Discharge.

And be it Enacted, That all preferences, gratuities, securities and payments granted, made or promised, or other consideration not
 35 sanctioned by this Act, and all secret or collusive agreements and transactions, for concurring in, facilitating or obtaining the Bankrupt's discharge, either on or without an offer of composition, and whether the offer be accepted or not, or the discharge granted or not, shall be null and void; and if during the Sequestration any
 40 Creditor shall have obtained any such preference, gratuity, security or payment, or promise thereof, or entered into such secret or collusive consideration or agreement and transaction, the Trustee shall be entitled to retain his dividend, and he or any Creditor ranked on the estate may present a petition to the Sheriff or to the

125.
 Preferences, Payments and collusive Agreements for Discharge on Composition or otherwise, null.

Lord Ordinary, praying that such Creditor shall be found to have forfeited his debt, and be ordained to pay to the Trustee *Double* the amount of the preference, gratuity, security or payment, or other consideration given, made or promised; and if no cause be shown to the contrary, decree shall be pronounced accordingly; and the sums which in such case may be recovered shall, under deduction of the expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full payment of his debt to raise a multiplepinding in name of the person who has obtained such preference, gratuity, security, payment or other consideration or promise as aforesaid; and on the value of the preference, gratuity, or security or amount of the sum paid or consideration obtained, being ascertained, such value or amount, together with the amount of the debt of the colluding Creditor, shall be ordered to be consigned by him as in a process of multiplepinding, and the same being ascertained shall be divided among the Creditors who were ranked or were entitled to be ranked in the Sequestration, and have not received full payment of their debts, and who shall lodge claims in such multiplepinding, according to their respective rights and interests: Provided that the said multiplepinding shall be executed in terms of law against the colluding Creditor, and notice thereof at the same time be inserted in the Edinburgh Gazette; and in the event that there shall be any surplus after paying the full debts of the Creditors, and defraying the expenses of the Sequestration or other proceeding, the same shall be paid into the account of unclaimed dividends as hereinafter provided.

126.

Bankrupt to
forfeit privi-
leges, if par-
ticipant in
giving such
Preferences,
&c.

And be it Enacted, That if the Bankrupt shall have been personally concerned in, or cognizant of the granting, giving or promising any preference, gratuity, security or payment, or other consideration, or in any secret or collusive agreement or transaction as aforesaid, he shall forfeit all right to a discharge, and all benefits under this Act; and such discharge, if granted, either on or without an offer of composition, shall be annulled; and the Trustee or any one or more of the Creditors may apply by petition to the Lord Ordinary to have such discharge annulled accordingly.

127.

If Bankrupt
do not make
a fair Surren-
der, &c. to be
punished.

And be it Enacted, That if it shall appear to a majority of the Creditors in number and value assembled at any meeting after the examination of the Bankrupt that he has not made a full and fair surrender of his estate, or that he has disposed of or concealed any part of his funds, to the prejudice of his Creditors, or that his Bankruptcy has been fraudulent, they may direct a meeting to be called specially for taking the subject into consideration on *Fourteen Days'*

Days' notice; and the said meeting, if they see cause, may authorize the Trustee to proceed against him in terms of law at the expense of the estate.

And be it Enacted, That it shall be competent to appeal against the resolutions of the Creditors at meetings, either to the Lord Ordinary or the Sheriff, provided a note of appeal shall be lodged with and marked by the Bill Chamber Clerk within *Fourteen Days* after the date of the meeting at which the resolution objected to has been passed, or (as the case may be) in the hands of and marked by the Sheriff Clerk within the like period; and it shall in like manner be competent to appeal against any deliverance of the Trustee to the Lord Ordinary or the Sheriff, provided the note of appeal shall be lodged and marked as aforesaid within *Thirty Days* from the date of the said deliverance (except in the case of dividends as hereinbefore specified); and where any such appeal is made, or any petition or complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the case may be) shall appoint a copy thereof, and of his deliverance thereon, to be served on the Respondent or his mandatory or known agent, and appoint the Respondent to appear at a specified diet within such period as may be reasonable; and the Lord Ordinary or the Sheriff (as the case may be) shall at such diet hear parties *vivâ voce*, and the Lord Ordinary shall proceed to dispose of the case summarily, with or without a record, as he shall consider best; and the Sheriff may also, without a record, decide, provided he shall specify the facts, and assign the grounds of his judgment; but if he shall see cause, he may order minutes to be lodged by the parties, containing their averments in fact and pleas in law, without argument, and may hold the same as a closed record, and proceed as in a summary cause; and in pronouncing his judgment, he shall assign his reasons; and it shall be competent to the Lord Ordinary or the Sheriff, where any resolution of a meeting of the Creditors is appealed against, to order a new meeting to be held, in order to reconsider the resolution.

128.
Judicial proceedings.

Appeals, &c.
against resolutions of Creditors and deliverances of Trustee, to the Lord Ordinary or Sheriff.

And be it Enacted, That it shall be competent to bring under the review of the Inner House of the Court of Session any deliverance of the Sheriff (except where the same is declared not to be subject to review), provided a note of appeal shall be lodged with and marked by the Bill Chamber Clerk within *Twenty-one Days* from the date of such deliverance (except in the case of appeals against a deliverance declaring due election of a Trustee, which shall be lodged as hereinbefore provided), failing which the same shall be final; and such reclaiming note shall be disposed of by the Inner House as speedily as the forms of Court will allow; and if it be lodged in time

129.
Review of Sheriff's Judgments.

of vacation, the Lord Ordinary may hear parties and give judgment, subject to review of the Inner House; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff with instructions.

130.
Review of
Lord Ordinary's Judgments.

And be it Enacted, That where any judgment of the Lord Ordinary is intended to be brought under review of the Inner House, the same shall be done by a reclaiming note in common form. 5

131.
Regulation by
Sheriff of
Interim Possession.

And be it Enacted, That during the dependence of appeals, or petitions and complaints, it shall be competent to the Sheriff to give such orders as may be necessary to regulate the interim possession and administration of the estate. 10

132.
Appeals to
House of
Lords.

And be it Enacted, That if any appeal shall be made to the House of Lords, the Sequestration shall in all respects, not inconsistent with or injurious to the interests which may be affected by the appeal, proceed without interruption, and if necessary, the Lord Ordinary shall give such order as may be necessary to regulate the interim re-possession and management of the estate. 15

133.
Agents in
Court of Session may be
Agents in
causes under
this Act before
the Sheriff.

And be it Enacted, that it shall be lawful for all agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts in so far as relates to any of the proceedings authorized by this Act to be carried on before the Sheriff, provided that they shall not be entitled to payment of any higher fees than those allowed by this Act, or legally exigible in such Courts. 20

134.
Trustee to
make an annual
Return to Sheriff
Clerk, and he
to Bill Chamber
Clerk.

And be it Enacted, That each Trustee shall on the *Thirty-first* day of *December* yearly deliver free of expense to the Sheriff Clerk of the county a return, in the form of the Schedule marked (I.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall within *Fourteen* Days thereafter transmit, in the form of the said Schedule, to the Bill Chamber Clerk a return of all the Sequestrations depending in the sheriffdom whereof he is Clerk; and the Bill Chamber Clerk shall cause the returns so made to be regularly inserted in a volume to be kept at all times in his office, with an index thereto framed by the said Clerk, and which volume shall be patent to all concerned; and any Trustee who shall fail to make such return shall be removable from his office at the instance of any one Creditor, or subject to such censure as the Lord Ordinary may think suitable, and be found liable in expenses. 30 35

135.
Trustee's
Discharge.

And be it Enacted, That after a final division of the funds, the Trustee shall call a meeting of the Creditors by an advertisement in the *Edinburgh Gazette*, to be held not sooner than *Twenty-one* Days 35

Days after such publication, specifying the time, place and purpose of holding the meeting, and by letters addressed by post to every Creditor who has produced an oath as aforesaid, to consider as to an application for his discharge; and at such meeting he shall lay before the Creditors the sederunt book and accounts, with a list of
 5 unclaimed dividends; and the Creditors may then declare their opinion of his conduct as Trustee; and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the petition with the minutes of the meeting, and hearing any Creditor, may pronounce or refuse decree of exoneration and discharge; and such
 10 decree, if granted, shall be entered in the Register of Sequestrations, and the Bond of Caution for the Trustee delivered up.

Proceedings
for this pur-
pose

And be it Enacted, That every Trustee in any Sequestration awarded under this Act shall, before his discharge, transmit the sederunt book to the Bill Chamber Clerk, who shall thereupon
 15 intimate to the Trustee the bank in which the unclaimed dividends are to be deposited, and he shall name the banks in the following rotation; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company of Scotland, the Commercial Bank of Scotland, and the National Bank of Scotland; and
 20 the Trustee shall forthwith transfer the whole dividends not then claimed to the bank so intimated, to be there entered in an account to be kept under the title of "Account of unclaimed Dividends;" and a book or books shall be kept in the office of the Bill Chamber Clerk, showing such rotation, and containing a list, with the names
 25 arranged alphabetically, of all the Creditors entitled to such unclaimed dividends, and in what bank deposited, which shall be patent to all persons; and after the discharge of the Trustee, it shall be competent for any person producing evidence of his right, to apply to the Lord Ordinary for authority to receive such dividends, and,
 30 on the Lord Ordinary being satisfied of the claimant's right, a warrant shall be granted for payment of such dividend, and upon such warrant the bank shall pay the same; provided that the claimant shall not be entitled to interest on such dividend, but such interest shall go into a general fund, of which an account shall be kept by
 35 such bank, to be called "The Interest Account of Unclaimed Dividends," and which fund shall be applied in such manner as shall be regulated by any Act of Parliament; and if at the end of *Twenty*
five Years from the date of closing any Sequestration there shall remain in the bank any unclaimed dividends belonging to the
 40 estate, the same shall be vested in Government stock, and the dividends thereon shall be regularly accumulated for the purpose of forming a fund for defraying the expense of proceedings in Bankruptcy, or otherwise as Parliament shall hereafter direct.

136.
All Trustees
to lodge un-
claimed Divi-
dends, &c. in
Bank.

Claimants
showing
right to apply
to Lord Ordinary.

Interest
Account of
Unclaimed
Dividends.

137.
Surplus to be
paid to Bank-
rupt.

And be it Enacted, That any surplus of the Bankrupt's estate and effects that may remain after payment of his debts, with interest, and the charges of recovering and distributing the estate, shall be paid to the Bankrupt or to his successors or assignees.

138.
Provisions as
to Perjury.

And be it Enacted, That if any person shall be guilty of wilful falsehood in any oath or affirmation made in pursuance of this Act, he shall be liable to a prosecution either at the instance of Her Majesty's Advocate, or at the instance of the Trustee, with the concurrence of Her Majesty's Advocate, at the expense of the estate, provided the prosecution shall be authorized by a *majority* in value of the Creditors present at a meeting to be called for the purpose; and such person shall on conviction, besides the awarded punishment, forfeit to the Trustee, for behoof of the Creditors, his whole right, claim and interest in or upon the sequestrated estate; and the same shall be distributed, either under the Sequestration, or if it be closed, under a process of multiplepoinding as is hereinbefore provided.

139.
Deliverances,
&c. may be
partly print-
ed; and cita-
tions to be
in terms of
1 W. 4, c. 37,
s. 7.

And be it Enacted, That all deliverances, bonds, schedules and executions under this Act may be either printed or in writing, or partly both; and service or citation may be in terms of an Act passed in the reign of His Majesty WILLIAM the Fourth, chapter thirty-seven.

140.
No Fee Fund
Dues exigible.

Fees payable.

And be it Enacted, That no payment shall be exacted as a contribution towards the Fee Fund at presenting any appeals, petitions or complaints, reclaiming notes, or any papers, under this Act: Provided, that in place of the whole fees heretofore exigible upon proceedings in Sequestrations, there shall be payable upon all proceedings under this Act the fees which are set forth in the Schedule marked (K.) hereunto annexed, and no others; and no Officer receiving any fees under this Act shall hold any vested interest in the same, but the fees hereby exigible shall be subject to regulation, without any claim for compensation on his part.

141.
Gazette
Keeper to
furnish copy
of Gazette to
Keeper of
Edictal Cita-
tions.

And be it Enacted, That from and after the *passing of this Act* the Keeper of the Edinburgh Gazette shall on each day of publication furnish a copy thereof to the Keeper of Edictal Citations, and to the Bill Chamber Clerk, who shall keep the same regularly filed, and make the said Gazettes on all occasions patent to the lieges at office hours, on payment of a fee of *Sirpence*, and no more.

142.
Charges on
Advertise-
ments under

And be it Enacted, That no advertisement inserted in the said Gazette by virtue of this Act, or an Act of the fifty-fourth year of the

the reign of his Majesty King GEORGE the Third, intituled, "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," or an Act of the sixth and seventh year of his late Majesty, intituled, "An Act for Regulating the Process of

5 Cessio Bonorum in the Court of Session, and for extending the Jurisdiction of Sheriffs in Scotland to such cases," shall be charged by the Keeper of the said Gazette, for publication therein, at a higher price, nor shall a higher price be paid for such publication, than the sums specified in the Schedule (L.) hereto annexed.

this Act and the Act of 54 Geo. 3, c. 137. and 6 & 7 Wm. 4, c. 56, regulated.

10 And be it Enacted, That from and after the commencement of this Act, all conveyances, assignations, instruments, discharges, writings or deeds, and all schedules to be registered in manner hereinbefore provided, relating solely to the estate belonging to any Bankrupt against whom Sequestration has been or may be

15 awarded either under this or any former Act, and also all powers of attorney, commissions, factories, oaths, affidavits, certificates, bonds, articles of roup or sale, relating solely to the estate of any Bankrupt sequestrated as aforesaid, and all other deeds or writings forming a part of the proceedings ordered under such Sequestration,

20 and all notices or advertisements inserted in the Edinburgh Gazette relative thereto, shall be exempt from all stamp-duties or other Government duty, and no rates or duties imposed by any Statutes upon the sale of estates or effects by auction shall be exigible on the sale of any estates or effects by auction under the authority of

25 this Act: Provided always, That no exemption from auction-duty shall be allowed on the sale by auction under this Act of any estate and effects, unless the auctioneer who shall conduct such sale shall, at the time of passing his account thereof, produce to the Officer of Excise a catalogue signed and certified by the Trustee

30 by whose order such sale shall have been made, in manner and form required by the laws of the Excise.

143.
Conveyances, Deeds, &c. relating to Estates of Bankrupts, not liable to any Stamp-duty.

Gazette Advertisements and Sales by Auction not liable to Duty.

And be it Enacted, That it shall be lawful for the Judges of the Court of Session, by an Act or Acts of Sederunt, from time to time to regulate the procedure in relation to this Act, in so far as

35 consistent therewith, and also to establish a table of fees to be allowed to agents, both in the Court of Session and Sheriff Court, for conducting the proceedings, which Act or Acts of Sederunt shall within One month after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for

40 the Home Department, that the same may be laid before both Houses of Parliament.

144.
Acts of Sederunt may be made.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

145.
Act may be repealed or amended.

SCHEDULES

REFERRED TO IN THIS ACT.

SCHEDULE (A.)

REGISTER OF SEQUESTRATIONS.

[illegible]

SCHEDULE (B.)

ABBREVIATE FOR THE REGISTER OF INHIBITIONS.

PETITION for Sequestration of A. B. [designation.]

Date of first deliverance

day of

(signed)

C. D. (If an Agent, state so.)

SCHEDULE (C.)

NOTICE FOR THE GAZETTE.

THE Estates of A. B. [designation.] were sequestrated on day of [the
first deliverance being dated the day of]

DATED *[insert date of first deliverance]*. The Meeting to elect the Interim Factor is to be held at _____ o'clock on the _____ day of _____ within _____ in _____ *[specify hour, day of week, month, year and place of meeting]*.

And the Meeting to elect the Trustee and Commissioners, is to be held at o'clock, on the day of within in [specify hour, day of week, month, year and place of meeting]. A composition may be offered at this latter meeting; and to entitle Creditors to the first dividend, their oaths and grounds of debt must be lodged on or before the [insert date].

(signed) P. Q., Agent.

SCHEDULE (D.)

FORM OF BOND OF CAUTION FOR AN INTERIM FACTOR OR TRUSTEE.

I, *A. B.* [designaⁿ], having been appointed Trustee [or Interim Factor] on the sequestrated estate of *C. D.* [designaⁿ]; and I, *E. F.* [designaⁿ] as Cautioner, Surety and full Debtor for and with the said *A. B.*, hereby bind and oblige ourselves, conjunctly and severally, our heirs and executors, that I, the said *A. B.*, shall faithfully discharge all the duties which by law attach to the said office of Trustee [or Interim Factor], and fully account for my whole intromissions with the said estate, and make payment of any balance due by me to the Creditors on the said estate, or Trustee elected by them to succeed

succeed me; declaring that this Bond shall not be in any way affected, nor shall I, the said *E. F.*, be liberated, by any omission, negligence or want of diligence on the part of the Creditors or Commissioners on the said estate. [*In case the caution has been limited by the Creditors, the following clause will be here inserted:* And declaring further, that this Bond, so far as concerns me, the said *E. F.*, shall not bind me or my foresaids to a greater extent than the sum of [*here insert sum in writing*], to which my obligation before written is hereby limited.] In witness whereof, this Bond (*so far as not printed*) written and filled up by [*here shall be inserted in writing a testing clause in legal form.*]

O. T., Witness.

(signed)

A. B.

F. L., Witness.

E. F.

SCHEDULE (E.)

ACT AND WARRANT TO THE INTERIM FACTOR.

THE Sheriff of the County of [*insert County*], has confirmed, and hereby confirms *A. B.* [*designation*], Interim Factor on the Estates of *C. D.* [*designation*], and declares the said *C. D.* to be hereby invested with all the powers conferred on Interim Factors by an Act passed in the _____ of the reign of Her Majesty Queen VICTORIA, intituled [*insert the title of this Act.*] [*Signed by Sheriff Clerk.*]

SCHEDULE (F.)

ACT AND WARRANT IN FAVOUR OF THE TRUSTEE.

THE Sheriff of the County of [*insert County*], has confirmed, and hereby confirms *A. B.* [*designation*], Trustee on the sequestrated Estate of *C. D.* [*designation*], and the whole of the estates and effects, heritable and moveable, and real and personal, wherever situated, of the said *C. D.* are transferred and belong to *A. B.*, as Trustee for behoof of the Creditors of the said *C. D.*, in terms of the Act of the _____ of the reign of Her Majesty Queen VICTORIA, intituled [*here insert the title of this Act*]; and the said *A. B.* has, as Trustee aforesaid, in terms of the said Act, full right and power to sue for and recover all estates, effects, debts and money belonging or due to the said *C. D.*

(signed)

C. D., Sheriff Clerk.

SCHEDULE (G.)

FOR THE RECORD OF ABBREVIATES.

THE whole estates and effects, heritable and moveable, and real and personal, wherever situated, of *C. D.* [*designation*], are transferred and belong to *A. B.* [*designation*], as Trustee on his sequestrated estate, in terms of an Act of the _____ of the reign of Her Majesty Queen VICTORIA, intituled [*here insert the title of this Act*].

[*Signed by the Trustee or his Agent.*]

SCHEDULE (H.)

FOR THE GAZETTE.

Sequestration of *C. D.* [*designation.*]

A. B. [*designation*], elected Trustee on the estate, and *E. F.* and *G.* [*designations*], elected Commissioners. Examination in the Sheriff Court-house on [*day of week*] the _____ of [*month*] next, at [*hour of the clock*]. The Creditors meet in the same place, on _____ at _____ o'clock. [*If any offer of composition has been entertained at the meeting for election of Trustee, intimate this as provided by the Act.*]

[*Signed by the Trustee.*]

SCHEDULE (I.)

ANNUAL RETURN by each TRUSTEE on the Thirty-first day of December; and by each SHERIFF CLERK within Fourteen Days thereafter.

Name and Designation of Bankrupt.	Date of Final Deliverance.	Name and Designations of Interim Factor and Trustee.	Names and Designation of Commissioners.	Dividend paid or unpaid.	Amount of Debts.	Allowance.	Protection or Liberation.	Discharge on Composition or without Composition.

SCHEDULE (K.)

TABLE OF FEES PAYABLE UNDER THIS ACT.

I.—IN THE COURT OF SESSION.

(1.) To the Bill Chamber Clerk :

	£.	s.	d.
On every deliverance awarding Sequestration, granting discharge to the Bankrupt, approving of composition, or exonerating the Trustee, and entering the same in the office minute book - - - - -	-	5	-
On every other deliverance (not being merely an order for papers, revisals, or such like), and entering same in the office minute book - - - - -	-	2	6
For entering the first deliverance and the deliverance awarding Sequestration in the register of Sequestrations, each (if separate) - - - - -	-	1	-
For entering the name and designation of the Interim Factor - - - - -	-	1	-
For entering the name and designation of the Trustee and Commissioners - - - - -	-	1	-
For every borrowing of the proceedings or any part thereof, and for every returning thereof, each - - - - -	-	1	-
For every certified copy or extract from said register of Sequestrations, or of any part of the proceedings, per sheet - - - - -	-	1	-
For inspection of the list of unclaimed dividends, and certifying any extract made therefrom - - - - -	-	1	-
On the lodging of the Trustee's accounts - - - - -	-	1	-

(2.) To the Keeper of the General Minute Book :

For entering the first deliverance and deliverance awarding Sequestration, adjudication and discharge, and approval of composition, each - - - - -	-	2	6
For entering any other deliverance or intimation - - - - -	-	1	-

(3.) To the Extractors :

For every extract made of the proceedings, or of the deliverance of the Lord Ordinary or Inner House, per sheet - - - - -	-	1	-
---	---	---	---

	£.	s.	d.
II.—TO THE KEEPERS OF THE RECORDS.			
For entering any schedule - - - - -	-	1	-
For entering on the margin of any record the recall of Sequestration, or discharge in favour of the Bankrupt - - - - -	-	1	-
For access to and liberty to make excerpts of proceedings under this Act from any register or record appointed herein to be kept, or in which entries are herein appointed to be made, a fee of One shilling for each year of the record inspected, but not exceeding in all for any One record - - - - -	-	10	-
For extracts or certified copies therefrom, per sheet - - - - -	-	1	-
For collating and certifying excerpts therefrom, per sheet - - - - -	-	-	6

III.—SHERIFF COURT.**(1.) To the Sheriff Clerk :**

On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee - - - - -	-	2	6
For every other deliverance, not being merely an order for papers or revisals - - - - -	-	1	-
For every transmission to or by him of the proceedings - - - - -	-	1	-
For entering the first deliverance, and the deliverance awarding sequestration in the register, each (if separate) - - - - -	-	-	6
For entering the name and designation of the Interim Factor in the register - - - - -	-	-	6
For entering the name and designation of the Trustee and Commissioner in the register - - - - -	-	-	6
For issuing, receiving back and examining bond of caution for an Interim Factor or Trustee, to be paid at the issuing of bond - - - - -	-	2	6
For oath of the Bankrupt, and examinations of him or others, per sheet - - - - -	-	1	-
For every warrant of apprehension or citation of the Bankrupt or others, or commission to take examination - - - - -	-	2	6
For every certified copy or extract of the proceedings before the Sheriff, or of any deliverance pronounced by him, per sheet - - - - -	-	1	-
For every annual report of the depending Sequestrations, for each Sequestration, to be paid by the Trustee - - - - -	-	-	6
For every borrowing of all or any part of the proceedings - - - - -	-	-	6
(2.) To the Sheriff attending any meeting of Creditors or examination, for each such meeting or diet of examination, not being on the same day -	1	1	-

SCHEDULE (L.)**TABLE of PRICES payable for ADVERTISEMENTS in the EDINBURGH GAZETTE.**

For six lines and under - - - - -	-	6	-
For more than six lines and not exceeding ten lines - - - - -	-	7	6
For more than ten lines and not exceeding fifteen lines - - - - -	-	10	6
For more than fifteen lines and not exceeding twenty lines - - - - -	-	14	6
For more than twenty lines and not exceeding twenty-five lines - - - - -	-	17	6
For more than twenty-five lines and not more than thirty lines - - - - -	-	1	6

Bankrupts' Estates (Scotland).

A

B I L L

For Regulating the Sequestration of the
Estates of Bankrupts in Scotland.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

*Ordered, by The House of Commons, to be Printed,
11 April 1838.*

[Price 7d.]



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For Regulating the Sequestration of the Estates of Bankrupts in Scotland.

WH **H**E **R**E **E**A **S** it is expedient to amend the laws for regulating the Sequestration of Estates of Bankrupts in Scotland; **B**E **I**t **E**nacted, by The **Q**U **E**E **N**'s most Excellent **M**A **J**E **S**T **Y**, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**H **A**T all Sequestrations depending at the commencement of this Act shall be proceeded in and brought to a conclusion under the provisions of an Act passed in the fifty-fourth year of the reign of his Majesty King **G**E **O**R **G**E the Third, intituled "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," and not under this Act.

Preamble.

1.
Depending
Sequestra-
tions to be
proceeded
in under
54 Geo. 3,
c. 137.

And be it Enacted, That this Act shall commence and take effect on and after the Thirty-first day of December One thousand eight hundred and Thirty-eight, and on and after that day, all Sequestrations shall be awarded in virtue of and in terms of this Act, and of no other Act, and such Sequestrations shall be proceeded in and brought to a conclusion under the provisions of this Act.

2.
Commence-
ment of this
Act.

And be it Enacted, That in construing this Act the word "Lord Ordinary" shall mean the Lord Ordinary officiating on the Bills in the Court of Session; that the word "County" shall include Sheriffdom, Shire and Stewartry, and every Ward, District or Division thereof; that the word "Sheriff" shall include Sheriff Substitute, and Stewart, and Stewart Substitute; that the word "Sheriff Court" shall include Stewart Court; that the word "Sheriff Clerk" shall include Sheriff Clerk Depute, Stewart Clerk, and Stewart Clerk Depute; that the word "Commissioners" shall mean a majority of

3.
Construction
and Meaning
of Words.

the Commissioners hereinafter mentioned ; that the word " Estates " shall comprehend every kind of property, heritable or moveable, real or personal, and all lands, tenements and hereditaments wherever situated, and all debts, claims and incorporeal rights belonging or due, or falling by succession or otherwise to the Bankrupt, and any part thereof ; that the word " Deliverance " shall include any Order, Warrant, Judgment, Interlocutor, or Decree ; that the word " Security " shall include all Securities, heritable or moveable, real or personal, and all Liens and Preferences, and all Conveyances thereof ; that the word " Successors " shall mean and include heirs, heirs apparent, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors, where they have acquired the right ; that the word " Month " shall mean a Calendar Month ; that the word " Oath " shall include Affirmation, where by law such Affirmation shall be required to be taken in place of an Oath ; that the word " Vote " shall, as well as the ordinary meaning thereof, include a consent to any offer of composition and to a discharge of the Debtor, and also a dissent from such offer or discharge, and generally any act as a Creditor ; that the words " Debtor," " Bankrupt " and " Creditor " shall include Bodies Corporate, Politic or Collegiate, Companies or Partnerships, as well as Individuals, and shall, as well as all other words importing the singular number and masculine gender, include several persons as well as one person, and females as well as males, and several matters of the same kind as well as one matter, (unless in this and also in the other cases herein above specified, a different construction shall be provided, or the construction be repugnant to the subject-matter or context) ; and this Act shall be construed in the most beneficial manner for promoting the ends hereby intended, and shall include married women carrying on trade independent of their husbands, and widows and aliens.

Act to be construed beneficially for the ends thereof.

4.
Sequestration of Estates of Debtors with their consent.

And be it Enacted, That the estates of any Debtor or Company subject to the laws of Scotland; and holding estates heritable or moveable within Scotland, may be sequestrated, provided that the Debtor or Company shall petition for Sequestration, with the concurrence of one or more Creditors, qualified as hereafter mentioned ; and if the petition is not signed by the Debtor or Company, a mandate by him, and in the case of a Company, a mandate signed by the Company or those entitled to act for it, authorizing such petition, shall be therewith produced.

5.
Sequestration of Estates of a Deceased Debtor.

And be it Enacted, That Sequestration may be applied for of the estates of any Deceased Debtor, who at the time of his death resided or had a dwelling-house or carried on business in Scotland, and was at that time owner of heritable or moveable estates in Scotland, provided

provided that Sequestration shall be applied for by one or more Creditors qualified as hereinafter mentioned : but no such Sequestration shall be awarded until the expiration of Six Months from the Debtor's death, unless he shall have granted a mandate to apply for
 5 Sequestration, or was at the time of his death Notour Bankrupt, or had remained in sanctuary as hereinafter provided, or unless his successors shall concur in the petition or renounce the succession, in which several cases Sequestration shall forthwith be awarded.

And be it Enacted, That the estates of any Debtor subject to
 10 the laws of Scotland, who is or has been a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, artificer, packer, builder, carpenter, shipwright, innkeeper, hotel-keeper, stable-keeper, coach contractor, cattle-dealer, grain-dealer, coal-dealer, fish-dealer, lime-burner, dyer, printer, bleacher, fuller,
 15 calenderer, and generally the estates of any Debtor subject as aforesaid who seeks or has sought his living, or a material part thereof, for himself or as agent or factor for others by using the trade of merchandise, by way of bargain, exchange, barter, commission or consignment, or by buying and selling, or by buying and letting
 20 for hire, or by the workmanship or manufacture of goods or commodities, or by any of the said occupations alone or in partnership with another, may be sequestrated without the consent of such Debtor, provided that he be Notour Bankrupt, and have carried on business in Scotland in any of the said occupations, and have also,
 25 within a year before the date of presenting the Petition for Sequestration, resided or had a dwelling-house or place of business in Scotland, and that a Petition be presented by one or more Creditors, as hereinafter directed : Provided always, That it shall not be competent to sequester the estates of any Debtor without his consent,
 30 as a holder of stock in any of the public or national funds, or of India Stock, or as a Partner in any Company incorporated or established by Act of Parliament, or by Charter, or as a landholder or farmer, unless in these last cases he be bonâ fide a dealer in cattle not the produce of nor grazed nor worked on his farm,
 35 or unless he be a dealer in grain not the produce thereof.

6.
 Sequestration
 of Estates of
 Debtors
 without
 consent.

Exceptions
 from Sequestration
 without
 consent.

And be it Enacted, That in like manner the estates of any Company subject to the laws of Scotland, and falling within any of the said descriptions, and not within any of the said exceptions, may be sequestrated without consent, provided any partner thereof has been
 40 rendered Notour Bankrupt for a Company Debt, and the Company have carried on business in Scotland in any of the said occupations, and a partner have, within a year before the date of presenting the Petition for Sequestration, resided or had a dwelling-house, or the Company have had a place of business in Scotland, and a Petition

7.
 Sequestration
 of Estates of
 Companies
 without
 consent.

for Sequestration be presented by one or more Creditors of the Company, as hereinafter directed.

8.
Sequestration
of the Estates
of Debtors
retiring to the
Sanctuary.

And be it Enacted, That if any Debtor, subject to the laws of Scotland, and holding heritable or moveable estates there, shall retire to the Sanctuary, and remain therein for Sixty Days (either continuously or not), within the space of Twelve Months prior to presenting a petition for Sequestration, as hereinafter provided, the estates of such Debtor, although he be neither Notour Bankrupt nor falling within any of the said descriptions, may be sequestrated without the consent of such Debtor, provided a petition be presented by one or more creditors as hereinafter directed.

9.
Creditors
entitled to
petition for
Sequestration.

And be it Enacted, That any One Creditor whose debt amounts to not less than Fifty Pounds, or any Two Creditors whose debts together amount to not less than Seventy Pounds, or any Three or more Creditors whose debts together amount to One hundred Pounds or upwards, whether such debts are liquid or illiquid (provided they be not contingent), may concur in a Petition by a Debtor for Sequestration, or may petition for Sequestration of the estates of any Debtor or Company liable to be sequestrated without consent; provided that in the latter case the Petition be presented within Four Months from and after the date of the Notour Bankruptcy, or in case of retiring to the Sanctuary within Four Months from and after the expiration of the said Sixty Days.

10.
Creditors to
make Oaths
to verity of
Debt and
produce
Vouchers.

And be it Enacted, That to entitle a Creditor residing within the Kingdom of Great Britain and Ireland to petition or concur in a Petition for Sequestration, or to vote or to draw a dividend therefrom, he shall produce, either with the Petition for Sequestration, or at a meeting of the Creditors, or in the hands of the trustee, an Oath, taken before a Judge Ordinary, Magistrate, or Justice of the Peace, to the verity of the debt claimed by him; and he shall in such oath state what other persons (if any) are besides the Bankrupt, liable for the debt or any part thereof, and specify any security which he holds over the estate of the bankrupt or of other obligants; and depone that he holds no other obligants or securities than those specified; and where he holds no other person than the bankrupt so bound, and no security, he shall depone to that effect; and if he hold a collateral obligation or security, he shall, before voting, and before being ranked in order to draw a dividend, be bound to qualify his claim as hereinafter provided: Provided always, That in cases where the Creditor is a body Corporate, an Oath of verity made as aforesaid by the Manager, Cashier, Secretary, Clerk or other principal Officer of such Body Corporate shall be sufficient, although the person making the same be not a Partner in such Corporation.

And

And be it Enacted, That to entitle a Creditor who is out of the Kingdom of Great Britain and Ireland to petition or concur in a petition or to vote, or to draw a dividend as aforesaid, he shall either make an oath to his debt, in the manner above provided, before a magistrate or Justice of the Peace of the country where he resides (he being certified to be a magistrate or Justice of the Peace by a notary public, British Minister or British Consul), or his known agent or mandatory in Great Britain or Ireland, shall make an oath of credulity to the same effect; and where any creditor shall be under age, or incapable to make oath, an oath of credulity as aforesaid, by his legally authorized agent, factor, guardian or manager, shall be sufficient.

11.
Creditors out
of Great
Britain and
Ireland;

or incapable
of an oath.

Provided always, and be it Enacted, That the Creditor shall produce with his said oath, such Accounts and Vouchers as shall be necessary to prove his debt; but if not in possession thereof previously to the period hereinafter assigned for lodging claims, with a view to a share in any dividend, he shall state in his oath the cause why the said accounts and vouchers are not produced, and in whose hands, to the best of his knowledge, the same are, which oath shall entitle him to have a dividend set apart till a reasonable time be afforded for production thereof, or for otherwise establishing his debt according to law; but he shall not be entitled to act or vote till such production be made or the debt established as aforesaid; and the Interim Factor or Trustee shall, on production of the oaths and grounds of debt, mark the same with his initials, and make an entry thereof in the Sederunt Book, and of the date when the same were produced, and if required he shall return to the Creditor the grounds of debt.

12.
Production of
Vouchers.

And be it Enacted, That application for Sequestration shall be made by Petition to the Lord Ordinary, signed by the petitioner or his counsel or agent, and the petitioning or concurring Creditor shall in all cases produce with such petition an Oath to the effect above specified, and also the accounts and vouchers of debt, as hereinbefore provided; and where the Petition is presented for Sequestration of the estates of a deceased debtor, the petitioning creditor shall in his oath, or in a separate oath, specify the place where the debtor resided or had a dwelling-house, or carried on business in Scotland at the time of his death, and whether he was then owner of heritable or moveable estates in Scotland; and where the Petition is presented during the life of the debtor, or for Sequestration of the estates of a Company, without the consent of the Debtor or Company, the petitioning Creditor shall in such oath swear that he believes the Debtor or Company, as the case may be, to be within one or other of the said descriptions, and specify which description, or that he

13.
Mode of ap-
plying for Se-
questration.

believes the debtor to have retired and remained within the Sanctuary as hereinbefore provided.

14.
On Peti-
tion by the
Debtor, Se-
questration to
be awarded.

Order to elect
Interim Fac-
tor, Trustee
and Commis-
sioners.

Remit to
Sheriff.

Protection of
Debtor.

And be it Enacted, That where a Petition is presented for Sequestration by the Debtor or by a Company, with concurrence as aforesaid, the Lord Ordinary shall forthwith issue a deliverance by which he shall award Sequestration of the estates which then belong or shall thereafter belong to the Debtor or Company before the date of the discharge, and declare the estates to belong to the Creditors for the purposes of this Act, and he shall appoint a general meeting of the Creditors to be held at a specified hour on a specified day, being not earlier than Eight and not later than Fourteen lawful Days from the date of the deliverance (or as much earlier as circumstances will permit), at a convenient place within the county where the Debtor carries on or last carried on his business (failing which, at a convenient place within the county, of place of residence or last residence), to elect an Interim Factor, and he shall also appoint the Creditors to meet at a specified hour on another specified day, being not less than Four Weeks and not more than Six Weeks from the date of the deliverance, at the place fixed for the election of Interim Factor, to elect a Trustee or Trustees in succession, and Commissioners, and do the other acts hereinafter provided; and remit to the Sheriff of the county where the meeting is to be held to proceed in manner hereinafter mentioned; and the Lord Ordinary shall by the same deliverance grant to the Debtor or Partners of the Company (as the case may be) a Protection against arrest or imprisonment for civil debt or obligation until the meeting of the Creditors for the election of Trustee as hereinafter provided.

15.
Sequestration
of the Estates
of deceased
Debtor.

And be it Enacted, That where a Petition is presented for Sequestration of the estates of a Debtor who is dead, the Lord Ordinary shall grant warrant to cite the debtor's next of kin, heir apparent, heir or other successor (as the case may be), personally or at his dwelling-place, if known and within Scotland, or if not known, or if furth of Scotland, at the Office of Edictal Citations, and in either of these last cases also at the house where the Debtor had at the time of his death his residence, or at his place of business in Scotland, on induciæ of Twenty-one Days from the date of citation, to show cause why Sequestration should not be awarded, and they shall be cited accordingly; and if, on the expiration of the said Twenty-one Days, and production of an execution of citation, they fail to appear, the Lord Ordinary shall order intimation of such warrant to be published in the Edinburgh Gazette, requiring the said next of kin, heir apparent, heir or other successor (as the case may be), to show cause as aforesaid within a further space of Twenty-one Days from the date of the publication of the said intimation; and if they do not then appear, or if appearing, no cause to the contrary be

be shown by them or any party interested, the Lord Ordinary shall award Sequestration, and issue the other orders, as hereinabove provided in the case of any other Debtor, in so far as circumstances will permit; and he shall ordain any successor who has made up a
 5 title to, or is in possession of the estate of the Debtor, to transfer such estate, so far as liable for the debts of the deceased, to the Trustee to be appointed as hereinafter directed; and if desired, the Lord Ordinary shall grant diligence to recover evidence to show that the Debtor resided, or had a dwelling-house, or carried on business in Scotland at
 10 the time of his death, and was then the owner of heritable or moveable estates in Scotland: and if Sequestration shall be awarded, such Sequestration shall proceed in the same way as in other cases, with the differences necessarily arising from the death of the Debtor: and the petitioning Creditor may at any time after the execution of
 15 the citation, and before Sequestration is awarded, apply to the Lord Ordinary to appoint a Judicial Factor to administer the estate in the mean time, and if no cause be shown to the contrary, the Lord Ordinary may appoint a Factor accordingly; and it shall not be competent for any Creditor, after the date of the first deliverance
 20 on the Petition for Sequestration, to be confirmed Executor Creditor, or to raise or insist in any adjudication or diligence against the estate of the Debtor.

Judicial
Factor.

And be it Enacted, That where the Petition for Sequestration is
 25 presented without the consent of the Debtor, the Lord Ordinary shall grant warrant to cite him to appear within a specified period, if he be within Scotland, of not less than Six Days nor more than Twenty-one Days from the date of citation, by delivering to him personally, or by leaving at his dwelling-house or place of business, a copy of the
 30 petition and warrant, and if the Debtor be furth of Scotland, to cite him to appear within a specified period, being not less than Thirty Days nor more than Forty Days from the said date, by leaving a copy at the dwelling-house or place of business last occupied by him, and also at the Office of Edictal Citations, to show cause
 35 why Sequestration should not be awarded; and the Lord Ordinary shall, if desired, grant diligence to recover evidence of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of his having retired to and remained within the Sanctuary as aforesaid; and if, upon the expiration of the time specified in the
 40 warrant, the Debtor do not appear at the diet of appearance either in person or by his counsel or agent, or so appearing do not instantly pay or produce written evidence of the debt or debts being satisfied in respect whereof he was made Notour Bankrupt, or in respect of which he had retired to and remained within the Sanctuary, and also pay or satisfy the debt or debts due to the Petitioner or Petitioners or to any other Creditor or Creditors who may have appeared and

16.
If Sequestration applied for without the Debtor's consent, Warrant to cite, &c. to be granted.

concurred in the petition, or do not show cause why Sequestration should not be awarded, the Lord Ordinary, on production of evidence of the citation and of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of having retired to and remained within the Sanctuary as aforesaid, shall award 5
Sequestration, appoint a meeting to be held for the election of an Interim Factor, Trustee and Commissioners, remit to the Sheriff, and grant a personal protection, all to the effect and in the manner above specified.

17.
Sequestration
of the Estates
of a Com-
pany, without
the consent
thereof.

And be it Enacted, That where a Petition is presented for the 10
Sequestration of the estates of any Company, the Lord Ordinary shall issue warrant and other orders to the same effect, and dispose of the petition in the same way as in the case of individual Debtors, and it shall be a sufficient citation that a copy of the petition and warrant be left at the place where the business of the Company is 15
or was last carried on, provided a partner, or a clerk, or a servant of the Company be there, and failing thereof, at the dwelling-house of any of the acting partners, and if the house of such partner cannot be found, by leaving the copy at the Office of Edictal Citations; and Sequestration may be awarded either on the application of the 20
Company itself, or on the application of a Creditor without the consent thereof of the estates of the Company and Partners jointly, or of their respective estates separately.

18.
Liberation of
Debtor.

And be it Enacted, That the Lord Ordinary may, on application made, either in the petition for Sequestration, or by a separate 25
petition by the Debtor, grant warrant for liberating the Debtor, if in prison, after such intimation to the incarcerating Creditor or his known agent, as the Lord Ordinary shall deem to be just, and after hearing any objection to the granting of such Warrant; and if the application be refused, it shall be competent for the Debtor to 30
make a new application for liberation, with consent of the Trustee and the Commissioners; and on intimation and hearing objections as aforesaid, the Lord Ordinary may grant Warrant to liberate.

19.
Effect of
Warrant to
protect or
liberate.

And be it Enacted, That the deliverance or Warrant granting pro- 35
tection or liberation, or a copy thereof certified by the Bill Chamber Clerk, shall protect or liberate the Debtor or a partner of a Company from arrest or imprisonment in Great Britain and Ireland, and Her Majesty's other dominions, for civil debt or obligation contracted previous to the date of Sequestration; but such Warrant of protec- 40
tion or liberation shall not be of any effect against the execution of a Warrant of arrest or imprisonment in meditatione fugæ, or ad factum præstandum, or for any criminal act.

And

And be it Enacted, That the Clerks of the Bill Chamber in the Court of Session shall be Clerks to Sequestrations under this Act, and they shall, so soon as a petition is presented for Sequestration, mark thereon (according to the desire of the petitioner) the Division of the Court to which the petitioner wishes the Sequestration to be appropriated, and to that Division the Sequestration shall be appropriated accordingly; and they shall keep a book, intituled, "The Register of Sequestrations," in the form of Schedule (A.) hereunto annexed, which book shall be patent to all concerned; and they shall forthwith therein enter the date of the first deliverance on every petition for Sequestration, and the name and designation of the Debtor, and of the petitioning or concurring Creditor; the place and county of the Debtor's residence dwelling-house, or place of business; the date of awarding Sequestration; the place and time appointed for the election of the Interim Factor and Trustee; the name and designation of the Interim Factor and of the Trustee and Commissioners; and the time fixed for lodging claims in order to obtain payment of the first dividend.

20.
Bill Chamber
Clerks to be
Clerks of Se-
questrations;
and Duties.

Register of
Sequestra-
tions.

And be it Enacted, That the party applying for Sequestration shall, before the expiration of the Second lawful day after the first deliverance, present an Abbreviate of the petition and deliverance, signed by him or his agent, in the form of Schedule (B.) hereunto annexed, to the Keeper of the General Register of Inhibitions at Edinburgh, who shall forthwith therein record the said Abbreviate; and the Abbreviate so recorded shall from the date of the said deliverance have the effect of an Inhibition, and of a citation in an adjudication of the estate of the Debtor, at the instance of the Creditors afterwards ranked on the estate; and it shall not be competent to stop such effect, or the effect of the Sequestration after it is awarded; by paying the debt or debts in respect of which it was awarded, and if the said Abbreviate be not so recorded, it shall have no effect as an Inhibition or citation as aforesaid; and the party applying for Sequestration shall, within Four Days from the date of the deliverance awarding Sequestration, insert a Notice, in the form of Schedule (C.) hereunto annexed, in the Edinburgh Gazette, and also one Notice within Eight Days in the London Gazette; but it shall not be necessary to insert any other Notice, under this Act, in the London Gazette.

21.
Abbreviate to
be recorded in
Register of
Inhibitions.

Notice of Se-
questration
to be pub-
lished in
Gazette.

And be it Enacted, That the Deliverance awarding Sequestration shall not be subject to review; but any Debtor whose estate has been sequestrated without his consent, or the successor of any deceased Debtor whose estate has been sequestrated as aforesaid, or any Creditor (whether the Sequestration has been awarded with or without the consent of the Debtor or his successor) may within Forty Days

22.
Deliverance
awarding Se-
questration
not liable to
review, but
may be re-
called.

after the date of the said Deliverance, present a petition to the Lord Ordinary, setting forth the grounds for recall, and praying for recall; and where Sequestration has been awarded of the estate of a deceased Debtor, when his successor was edictally cited, it shall be competent to such successor, or any person having interest, to apply by petition as aforesaid, at any time before the publication of the advertisement, for payment of the first dividend hereinafter mentioned: And the Lord Ordinary shall in these several cases order a copy of the petition and of his Deliverance to be served on the petitioning Creditor, or (as the case may be) on the petitioning Debtor and the concurring Creditor, or on their respective known agents, and on the Interim Factor or Trustee, if appointed; and he shall require them to answer within a certain short time, and order a notice of the presenting of the petition to be published in the Edinburgh Gazette; and on the expiration of the said period he shall proceed to pronounce judgment; and if he shall recall the Sequestration, the recall shall be entered by the Clerk in the Register of Sequestrations, and by the Keeper of Inhibitions on the margin of the Record of Inhibitions; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

Notice to be published.

23.
No Recall competent after a certain time; unless Nine-tenths of Creditors apply.

And be it Enacted, That no petition for recall of the Sequestration shall be competent after the expiration of the said Forty Days, or after the said advertisement for payment of the first dividend respectively: Provided, That Nine-tenths in number and value of the Creditors ranked on the estate as herein directed may apply at any time for recall by petition to the Lord Ordinary, who shall order notice of his deliverance to be published in the Edinburgh Gazette, requiring all concerned to appear within Fourteen Days from the date of publication in the Gazette, to show cause why the Sequestration should not be recalled; and on expiration of the said time he shall proceed to pronounce judgment; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

24.
Creditors may be sisted in place of others.

Proceedings to go on although Debtor die.

And be it Enacted, That if a Creditor who has petitioned for Sequestration, or concurred in such petition, or who has petitioned for recall of a Sequestration, or appeared to oppose a petition for Sequestration or recall, or lodged an objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his place, and follow out the proceedings; and if the Debtor shall die after the petition for Sequestration is presented, the proceedings shall notwithstanding be followed out in terms of this Act.

And

And be it Enacted, That in all questions under this Act the Sequestration shall be held to commence and take effect on and from the date of the first deliverance by the Lord Ordinary, which shall be held to be the date of the Sequestration, although the Sequestration be not actually awarded till a later date.

25.
Date of Sequestration.

5

And be it Enacted, That the awarding of Sequestration in virtue of this Act, shall render the Debtor or Company Notour Bankrupt, as at the date of the first deliverance, but without prejudice to any previous Notour Bankruptcy.

26.
Sequestration equivalent to Notour Bankruptcy.

10

And be it Enacted, That the presenting of, or concurring in a petition for Sequestration, in manner before mentioned, or the lodging a claim in terms of this Act, in the hands of the Interim Factor, Sheriff Clerk acting as Factor, or Trustee, or the Sheriff officiating at any meeting of Creditors, shall interrupt prescription of the Creditor's debt so petitioning, concurring or claiming, and in regard to such debt, bar the effect of any Statute of Limitations in England or Ireland or Her Majesty's dominions; and although the Sequestration shall be recalled, such interruption or bar shall notwithstanding be effectual.

27.
Petitioning, concurring, or claiming to interrupt Prescription, and bar Statute of Limitations.

15

20

And be it Enacted, That notwithstanding the said remit to the Sheriff, the process of Sequestration shall be held to be depending in the Court of Session, and shall not fall asleep, nor cease by the death of the Debtor; and on the said remit being made, a copy of the Petition for Sequestration, and of the first deliverance, and also (where it is different) of the deliverance awarding Sequestration, certified by the Clerk of the Bill Chamber, shall, with the productions, be transmitted by the petitioner to the Sheriff Clerk of the county, or ward or place where the meeting for election of Interim Factor is directed to be held; and the Sheriff shall have as full power and jurisdiction as hitherto possessed by the Court of Session (subject always to review) to try and determine all questions in the Sequestration, except in those cases where the power is specially conferred on the Court of Session or Lord Ordinary; and the Sheriff Clerk and Officers of the Sheriff Court shall have power to act in their respective offices under this Act; and the Sheriff Clerk shall keep a register of Sequestrations transmitted to him in terms of the said Schedule (A.)

28.
Sequestration to remain in Court of Session, but Certified Copy of Petition, &c. to be transmitted to the Sheriff Clerk.

Jurisdiction of Sheriff.

Sheriff Clerk to keep Register.

35

40

And be it Enacted, That all deliverances of the Lord Ordinary and of the Court of Session, and of the Sheriff, as well as extracts of all deliverances under this Act, shall be evidence in all courts and places within Great Britain and Ireland and Her Majesty's dominions, and shall be sufficient warrants for all Diligence and execution by law competent.

29.
Extracts to be Evidence and warrants for Diligence.

30.
Agent's claim
for expenses
restricted to
estate and
against em-
ployer.

And be it Enacted, That no person shall, by merely lodging an oath, or being ranked, or receiving payment of a dividend, or appearing or voting at a meeting in a Sequestration as a Creditor, be personally liable for any claim by the agent or other person employed by the Interim Factor or Trustee, for money advanced or expense incurred or remuneration in relation to the affairs of the estate, reserving to the agent or other person so employed, right to payment out of the estate, and from the Interim Factor or Trustee by whom he may have been so employed in so far as the same may be lawfully competent to him; and no Interim Factor or Trustee shall have relief in respect of such payment against such Creditor, reserving to such Interim Factor or Trustee relief against the estate and against those Creditors or others who may on other grounds be liable in relief.

31.
Mandatory
for Creditors
may vote.

And be it Enacted, That the mandatory of any person entitled to vote as a Creditor may vote in the absence of such Creditor, provided he exhibit a written mandate; and the vote of such mandatory shall, within his mandate, be held as the vote of the Creditor himself.

32.
Persons ac-
quiring Debts
after Seques-
tration not to
vote.

And be it Enacted, That no person who shall acquire, after the date of the Sequestration, otherwise than by succession or marriage, a debt due by the Bankrupt, shall be entitled to vote in the election of Interim Factor or Trustee or Commissioners, but in all other respects such person may be reckoned as a Creditor.

33.
Creditors may
accumulate
Arrears of
Interest.
Rules as to
Interest on
Debts and
Discounts.

And be it Enacted, That if a Creditor claim for a debt with bygone interest, he may in his oath accumulate the interest as at the date of the Sequestration, and he shall specify the amount, but he shall not be entitled to claim on the estate for interest either on the principal Debt or on such accumulated sum after the date of the Sequestration; and if a Creditor claim for a debt which is not payable till after the date of the Sequestration, he shall in his oath deduct the legal interest thereon from the date of the Sequestration to the term of payment, and specify the balance; and if he claim for a debt which, by the usage of trade, is liable to a discount of more than legal interest, he shall in his oath state the amount of such discount, and deduct it from the debt, and specify the balance; provided that if such debt be not payable at the date of the Sequestration, he shall also deduct from such balance the legal interest as aforesaid, and specify the balance: and the Creditor in the said several cases shall be entitled to vote, and to draw dividends for the said accumulated sum or balance respectively and no more: Provided that, if there be any residue of the estate after discharging the debts ranked, he shall be entitled to claim out of such residue the full amount of the interest on his debt in terms of law.

And

And be it Enacted, That if a Creditor hold a security for his debt over the estate or effects of the Bankrupt, he shall, before voting make an oath, in which he shall put a value on such security, and deduct such value from his debt, and specify the balance : and if the estate be sold and the price realized, he shall specify in his oath the free proceeds which he has received or shall be entitled to receive therefrom, and specify the balance due after deduction thereof, and he shall be entitled in either case to vote in respect of such balance and no more ; without prejudice to the amount of his debt in other respects, and being counted as hereinafter provided ; and in questions as to the disposal or management of the estate or effects subject to his security, he shall be entitled to vote as a Creditor for the whole amount of his debt, without making any such deduction.

34.
Rules as to voting, where a Creditor holds a security over the Bankrupt's estate.

And be it Enacted, That where a Creditor has an obligant bound with, but liable in relief to the Bankrupt, in whole or in part, or where a Creditor holds any security from an obligant, liable in relief as aforesaid, or any other security, against the subject of which the Bankrupt has a right of relief, he shall, before voting, make an oath, in which he shall put a value on the obligation of such obligant, and on such security, to the extent to which the Bankrupt is entitled to relief, and deduct such value from his debt, and specify the balance ; and he shall be entitled to vote in respect of such balance and no more, without prejudice to the amount of his debt in other respects.

35.
Rules as to voting, where a Creditor has obligants liable in relief to the Bankrupt.

And be it Enacted, That a Creditor on the estate of a company shall not be bound for the purpose of voting on the company's estate to deduct from his claim the value which he may be entitled to draw from the estates of the partners ; but if he claim on the estate of a partner, he shall, before voting, in his oath, put a value on his claim against the company, and also against the other partners thereof, in so far as they are liable to relieve such partner, and deduct such value from his debt, and specify the balance ; and he shall be entitled to vote as a Creditor for the said balance, and no more, without prejudice to the amount of his debt in other respects, and being counted in number as hereinafter specified.

36.
Valuation of claims by Creditors of a Company on a partner's estate.

Provided always, and be it Enacted, That it shall be competent to the Trustee, with consent of the Commissioners, within Two Months after an oath specifying the value of a security or obligation in the several cases before-mentioned, has been made use of in voting at any meeting, or in assenting to or dissenting from the Bankrupt's composition or discharge, as also to the majority of the Creditors (other than the Creditor making such oath) assembled at any meeting during such meeting, to require from the Creditor making

37.
Right of Trustee to Assignment to Securitica.

Provision for
change on
values of
Securities.

making such oath a conveyance or assignation to such security or obligation on payment of the specified value, with Twenty per centum in addition to such value; and the Creditor shall be bound to grant such conveyance or assignation at the expense of the Trustee: **Provided**, that where a Creditor has put a value on such security or obligation, he may, any time before he has been required to convey and assign as aforesaid, correct such valuation by a new oath, and deduct such new value from his debt.

38.
Rules as to
Valuation of
Securities,
with a view to
a dividend.

And be it Enacted, That to entitle any Creditor who holds a security over the estate or effects of the Bankrupt, to be ranked, in order to draw a dividend, he shall on oath put a value on such security, and deduct such value from his debt, and specify the balance; and the Trustee, with consent of the Commissioners, shall be entitled to an assignation to such security or preference, on payment of the value so specified out of the first of the Common Fund, or to reserve to such Creditor the full benefit of such security or preference; and in either case the Creditor shall be ranked for and receive a dividend on the said balance, and no more, without prejudice to his debt in other respects.

39.
Valuation of
Claims by
Creditors of
a Company
with a view
to a dividend
on a Partner's
Estate.

And be it Enacted, That where a Creditor claims on the estate of a partner of a Company, in respect of a debt due by such Company, the Trustee on the estate of such partner shall, before ranking such Creditor for payment of a dividend, put a valuation on the estate of the Company, and deduct from the claims of such Creditors such estimated value, and rank and pay to them a dividend only on the balance; but the judgment of the Trustee shall be subject to review, as hereinafter provided.

40.
Contingent
Creditors.

And be it Enacted, That where the claim of a Creditor depends upon a contingency which is unascertained at the date of lodging his claim, he shall not be entitled to vote, nor to draw a dividend in respect of such contingent debt; but he may apply to the Sheriff, if the Trustee has not been elected, or if elected, to the Trustee, to put a value on such debt, and the Sheriff or Trustee (as the case may be) shall put a value thereon; and on such value being fixed, such Creditor may vote in respect of such value, and be counted in respect thereof, and also in number, if such value exceed Twenty Pounds, and draw dividends on such value: **Provided** that if such contingency has ceased before the debt has been valued, such Creditor may vote and draw dividends in respect of the amount of the debt, but the same shall not disturb any former dividends allotted to other Creditors; and where such application is made to the Sheriff, notice thereof shall be given to the Interim Factor (if he be elected) and if not elected, to the Bankrupt and petitioning or concurring Creditor;

Creditor; and the judgment of the Sheriff or Trustee shall be subject to review, and any Creditor who has claimed on the estate may appeal and be heard thereon.

And be it Enacted, That any Creditor in respect of an annuity granted by the Bankrupt, may, if the Trustee has not been elected, apply to the Sheriff, or if elected, to the Trustee, to put a value on such annuity; and the Sheriff or Trustee (as the case may be) shall put a value on the annuity, regard being had to the original price given for the said annuity, deducting therefrom such diminution in the value of the annuity as shall have been caused by the lapse of time, since the grant thereof, to the date of the Sequestration; and such Creditor shall be entitled to vote and draw dividends in respect of such value, and no more: Provided always, That where such application is made to the Sheriff, notice thereof shall be given to the interim Factor (if elected), and if not elected, to the Bankrupt and the petitioning or concurring Creditor; and the judgment of the Sheriff or Trustee shall be subject to review; and any Creditor who has claimed on the estate may appear and be heard thereon.

41.
Annuity Creditors.

Provided always, and be it Enacted, That it shall not be lawful to any person entitled to an annuity granted by the Bankrupt to sue or charge, after the date of the Sequestration, any Cautioner for the payment of such annuity, until the value of the annuity has been fixed in manner hereinbefore provided, and such Cautioner shall only be liable for the value so fixed, and the arrears of annuity; and on such Cautioner making payment of such value to the Creditor, with the arrears of the annuity (if any), and the lawful interest on such value, the Cautioner shall be discharged of all liability in respect of his obligation, and may thereupon enter a claim in the Sequestration for the sum so paid, and vote and draw dividends thereon: Provided always, That if such Cautioner shall not pay the sum so fixed and interest as aforesaid, before any payment of the annuity subsequent to the fixing thereof becomes due, he shall be bound to make payment of the said annuity, and all subsequent annuities, until he shall make payment of the sum so fixed, arrears of annuity and interest as aforesaid, deducting always such dividends as the Creditor shall have received before full payment as aforesaid.

42.
Provision as to Cautioners for annuities.

And be it Enacted, That where a Creditor has an obligant bound to him along with the Bankrupt for the whole or part of the debt, such obligant shall not be freed from his liability for such debt in respect of any vote given, or dividend drawn by the Creditor under this Act, or of his assenting to the discharge of the Bankrupt, or to any composition proposed by him; but such obligant may require and obtain at his own expense from such Creditor an assignation to the debt on payment

43.
Claiming or acting in the Sequestration not to discharge Co-obligants.

of the amount thereof, and in virtue thereof enter a claim on the said estate, and vote, and draw dividends, if otherwise lawfully entitled to do so.

44.
Oath not to
supersede
legal Evi-
dence.

And be it Enacted, That in no case shall oaths of verity or credulity supersede production of legal evidence where required in any judicial discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee. 5

45.
Rule as to
Majorities.

And be it Enacted, That all questions at any meeting of Creditors shall be determined by the majority in value of those present and entitled to vote, unless in the cases herein otherwise provided for; and where, for the purpose of voting, the Creditors are required to be counted in number, no Creditor whose debt is under Twenty Pounds shall be reckoned in number, but his debt shall be computed in value. 10

46.
Proceedings
at Meetings
for election of
Interim Fac-
tor or Trust-
tee.

And be it Enacted, That Creditors or their mandataries qualified as aforesaid shall assemble at the times and places fixed respectively for the election of Interim Factor, and for election of the Trustee, with power to adjourn on these or any other occasions for such reasonable time as may seem fit; provided such adjournments do not postpone the meetings for the election of Interim Factor and Trustee beyond the limits of the periods within which these meetings are by this Act appointed to be held; and if Two or more Creditors shall give notice to the Sheriff or Sheriff Substitute of the county, such Sheriff or Sheriff Substitute (or in case of necessary absence, a Sheriff Substitute authorized by the Sheriff to act under this Act) shall with the Sheriff Clerk or his Depute attend the meeting; and the Sheriff or Sheriff Substitute shall preside thereat, and the Sheriff Clerk shall mark the oaths and productions with his initials, and enter in the minutes the names and designations of the creditors, or the mandataries of Creditors, and the amount for which they claim, and any other circumstances which the presiding Sheriff shall judge fit; which minutes the Sheriff or his Substitute shall sign; and the Clerk shall retain the oaths of the several claimants, subject to exhibition thereof in his hands, till the election shall be determined, when he shall deliver the same to the interim Factor or Trustee (as the case may be); and where no such requisition is made for the attendance of the Sheriff or Sheriff Substitute, the Creditors shall elect a Preses and Clerk, and the Preses shall mark the oaths and productions with his initials, and sign the minutes, and the Clerk shall in the presence of the meeting write the minutes: and the Creditors or their mandataries, who have produced their oaths and documents of debt, and who have been entered in the minutes, shall then and there elect a fit person to be Interim Factor, or to be Trustee (as the case may be), or two or more Trustees to act in succession 15 20 25 30 35 40

succession in case of non-acceptance, death, resignation, removal or disqualification ; and in the case of the Sequestration of the estates of a company and of the partners, one Interim Factor and (as the case may be) one Trustee for all the estates, or separate Interim
 5 Factors or (as the case may be) separate Trustees on the estates of the company, and on the estates of all or each of the individual partners and trustees in succession as aforesaid : And it shall not be lawful to elect as Interim Factor or Trustee the Bankrupt, or any person conjunct and confident with the Bankrupt, or who holds an
 10 interest opposed to the general interest of the Creditors, or whose residence is not within the jurisdiction of the Court of Session.

And be it Enacted, That if at the election either of Interim Factor or Trustee (as the case may be), any objection be made to the votes or candidates, such objections may, if the Sheriff or ordinary
 15 Sheriff Substitute be present, be forthwith disposed of by him, or he may make avizandum, and he shall, if necessary, make a short note of the objections and of the answers, on which he shall within Four Days after the meeting hear parties vivâ voce, and declare the person to be Interim Factor, or (as the case may be) the person or
 20 persons, trustee or trustees in succession, whom he shall find to have been duly elected, and state the grounds of his decision in a note.

Provided always, and be it Enacted, That where the officiating Sheriff, present at the said meeting for the election, is a Sheriff Substitute appointed to act in the absence of the Sheriff or of the
 25 ordinary Sheriff Substitute of the county, or is a Preses elected by the Creditors, such Substitute or Preses, whether there be any competition or not, shall forthwith report the proceedings to the Sheriff or ordinary Sheriff Substitute, and the oaths of the several claimants shall, if the Sheriff Clerk or his Depute be present, remain in his possession, or, if he be not present, shall be transmitted to the Sheriff
 30 Clerk by the Preses, to be retained by him till the Interim Factor or Trustee (as the case may be) shall be finally appointed, when he shall deliver the same to such Interim Factor or Trustee ; and if there be no competition, the Sheriff or ordinary Substitute shall declare the person elected Interim Factor or (as the case may be)
 35 Trustee or Trustees in succession ; and if there be competition, the parties shall, within Four Days from the date of the said meeting, lodge in the hands of the Sheriff Clerk short notes of objections, and the Sheriff or ordinary Sheriff Substitute shall forthwith hear parties thereon vivâ voce, and give his decision, and state the grounds
 40 thereof in a note ; and the deliverance of the Sheriff or Sheriff Substitute, declaring the person elected to be Interim Factor, shall in no case be subject to review in any court or in any manner whatever.

47.
 Procedure where no Objections made, and where they are made.

48.
 Provision for the case where the Sheriff or ordinary Substitute is not present at the meeting.

49.
Amount of
Caution to be
fixed, and
Bond to be
lodged.

And be it Enacted, That the Creditors shall at the said meetings respectively fix a sum for which the Interim Factor shall find security, and for which the Trustee to be confirmed shall also find security, for their respective intromissions and performance of the duties and rules hereby enacted, and shall also decide on the sufficiency of the caution offered by the respective competitors; and the Interim Factor and the person declared to be Trustee shall respectively forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Interim Factor and his Cautioner, and by the Trustee and his Cautioner (as the case may be) in the form of the Schedule (D.) hereunto annexed, which bond shall be furnished to him by the Sheriff Clerk. 5 10

50.
Confirmation
and Act and
Warrant to be
issued.

And be it Enacted, That on such Bond being lodged, the Sheriff shall confirm the election of the person chosen Interim Factor or Trustee (as the case may be); which deliverance shall be final and not subject to review in any Court or in any manner whatever, and the Sheriff Clerk shall thereupon issue an Act and Warrant in the form of Schedule (E.) hereunto annexed to the Interim Factor; and in the case of the election of Trustee, an Act and Warrant in the form of Schedule (F.) hereunto annexed to the Trustee; and the Interim Factor or Trustee (as the case may be) shall immediately transmit a copy of the said Act and Warrant to the Bill Chamber Clerk, who shall thereupon make an entry of the name and designation of the Interim Factor and of the Trustee (as the case may be) in the Register of Sequestrations; and the said Act and Warrant shall be an effectual title to the Interim Factor and Trustee respectively to perform the duties hereby imposed on them, and shall be evidence of the Trustee's right and title to the said estates for the purposes of this Act; and a copy of the said Act and Warrant in favour of the Interim Factor or Trustee certified by the Bill Chamber Clerk, and authenticated by the seal of the Court of Session, shall be received in all courts and places within England, Ireland and Her Majesty's other dominions, as evidence of the title, and shall entitle them respectively or the Trustee or Interim Factor to recover any debt due to the Bankrupt and to maintain actions in the same way as the Bankrupt might have done if his estates had not been sequestrated. 15 20 25 30 35

And to be a
title as
Interim
Factor or
Trustee.

51.
Sheriff Clerk
to act if no
Interim Fac-
tor elected.

Power to
Sheriff to seal
up and pre-
serve estate,
before election
of Factor.

And be it Enacted, That in case the Creditors shall fail to elect an Interim Factor, or the nomination shall otherwise fail, the interim care and management of the estate shall devolve on the Sheriff Clerk of the county; and the Sheriff shall have power upon cause shown by any of the Creditors at any time after the sequestration, and before the election of an Interim Factor, to seal up and cause to 40

to be put under safe custody the books and papers of the bankrupt, and to lock up his shop, warehouse or other repositories, and to keep the keys thereof till a Factor is named, or the care of the estate devolved on the Sheriff Clerk, subject to such orders as the Sheriff
5 may see fit for preservation.

And be it Enacted, That the Interim Factor shall, immediately on receiving the Act and Warrant of his appointment, or, failing him, the Sheriff Clerk shall take such steps as may be necessary for the preservation of the estate until the meeting of the Creditors for the
10 election of Trustee; and he shall take possession of and recover the Bankrupt's estate, and his title-deeds, books, bills, vouchers, and all other documents whatsoever, so far as then known, and make an inventory thereof, and he shall transmit a copy of such inventory to the Bill Chamber Clerk; and he shall lodge in Bank
15 all monies received by him as hereinafter directed, and he shall pay to the petitioning or concurring Creditor, out of the first funds which shall come into his hands, the expense incurred by him in obtaining the Sequestration, and doing the other acts hereby required prior to the election of the Interim Factor, as the same
20 shall be taxed; and if the funds received by the Interim Factor or Sheriff Clerk shall not be sufficient, such expenses shall be paid by the Trustee, when he shall be appointed, out of the first of the funds which shall come into his hands.

52.
Duties of
Interim
Factor.

To lodge
Money in
Bank, &c.

And be it Enacted, That the Bankrupt shall with all despatch,
25 and before the time appointed for the election of Trustee, make up and deliver to the Interim Factor (or Sheriff Clerk, as the case may be) a state of his affairs, specifying his whole estate, wherever situated, the estates in expectancy or to which he may have an eventual right, the names and designations of his Creditors and
30 Debtors, and the debts due by and to him, and a rental of his heritable subjects, which state and rental shall be subscribed by the Bankrupt and preserved by the Interim Factor or Sheriff Clerk acting as Factor, and abstracts thereof shall be ingrossed in a Sederunt Book to be kept by him; and the Bankrupt shall at all times give every
35 information and assistance necessary to enable the Interim Factor or Sheriff Clerk acting as Factor or Trustee to execute his duty; and if the Bankrupt fail to do so, or to grant any deed which may be requisite for the recovery of the estate, the Interim Factor or Sheriff Clerk acting as aforesaid or Trustee may apply to the Sheriff to
40 compel him to give such information and assistance, and to grant such deed, under the penalty of incarceration and of forfeiture of the benefits of this Act; and, unless cause be shown to the contrary, the Sheriff shall issue a warrant of incarceration accordingly.

53.
Bankrupt to
make up state
of affairs, and
give informa-
tion and
assistance.

54.
At meeting to
elect Trust-
tee, Interim
Factor to ex-
hibit States,
and be remu-
nerated.

And be it Enacted, That at the time and place appointed for the said meeting to elect a Trustee, the Interim Factor (or Sheriff Clerk) shall exhibit the Sederunt Book containing the said inventory, state and rental, and also an account of his intromissions and disbursements, and if required by any Creditor, the books of the Bankrupt, with the title-deeds, bills, vouchers and other documents, conform to inventory; and if the meeting be satisfied that the Interim Factor (or Sheriff Clerk) has duly lodged the money and performed his duties, they shall fix his remuneration, and he shall receive payment thereof, and of all advances made by him out of the funds in his hands: and if the Interim Factor (or Sheriff Clerk) be dissatisfied with the sums allowed, the same shall be determined by the Sheriff; but the Interim Factor (or Sheriff Clerk) shall not be entitled, in respect of non-payment thereof or on any other ground, to retain any part of the estate, and he shall be bound forthwith to deliver the estate, books, title deeds, bills, vouchers, and the said state, rental, and all other documents to the Trustee, who shall, if sufficient funds have not been realized by the Interim Factor (or Sheriff Clerk), pay the said remuneration and advances out of the first money which shall come into his hands.

55.
Appeal
against Elec-
tion of Trust-
tee.

And be it Enacted, That any Creditor or Competitor giving notice in writing to the Sheriff Clerk, within Two Days after the date of the Sheriff's deliverance declaring the election of the Trustee, of his intention to appeal against such deliverance, shall be entitled to appeal during Session to the Inner House of the Court of Session, or in vacation to the Lord Ordinary, provided that a Bond of Caution for the Competitor, signed by a Cautioner approved of at the said meeting, for election of Trustee, shall along with such notice be lodged with the Sheriff Clerk, and a certificate thereof by the Sheriff Clerk, with a note of appeal against such deliverance, be lodged with and marked by the Clerk of the Bill Chamber within Fourteen Days from the date of such deliverance; and on a copy of such note, certified by the Bill Chamber Clerk, being delivered to the Sheriff Clerk, he shall forthwith transmit to the Bill Chamber Clerk the minutes of election, together with such of the proceedings as may be required; and the Inner House, or the Lord Ordinary (as the case may be) shall thereupon hear parties vivâ voce, and decide which of the Competitors has been duly elected, or may order a new election, and appoint a time and place for that purpose; and if the appealing Competitor shall be preferred, a remit shall be made to the Sheriff to confirm him; and no part of the expense of such competition, either before the Sheriff or any other court, shall be paid out of the estate, but the expenses shall be ordered to be paid by the unsuccessful party to the successful party.

Expenses
how to be
paid.

And

And be it Enacted, That no appeal shall have the effect to stop the proceedings in the Sequestration, and the Interim Factor (or Sheriff Clerk as the case may be) shall continue to act until a Trustee shall be finally confirmed; and on every new election an appeal may be made and other proceedings take place in manner before provided; and the Interim Factor shall deliver to the person confirmed Trustee the estate of the Bankrupt, with the books, title-deeds and other documents in his possession, and account to him for his intromissions; and the Creditors may at any meeting (which, if required, the Trustee shall call) make an allowance to the Interim Factor (or Sheriff Clerk) for his trouble during the period of his administration, subject to review of the Sheriff as aforesaid; and the Trustee shall pay the sum so allowed, and the expenses incurred by the Interim Factor or Sheriff Clerk out of the first of the funds.

56.
Appeal not to
stop Sequestration.

Interim Factor to continue to act.

Remuneration to Interim Factor.

And be it Enacted, That at the meeting for election of Trustee, the Creditors present, or their Mandatories, shall, after the election of the Trustee, elect Three Commissioners (if there be so many Creditors who have claimed), who shall be either Creditors or Mandatories of Creditors, and the same proceedings shall take place in regard to their election as is provided in regard to the election of Trustee, (except that they shall not be bound to find security), and the Sheriff shall decide who are the persons duly elected, and declare their election by a deliverance in the Sederunt Book, which shall entitle them to act without further authority; and a majority of them shall be a quorum: Provided that no person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatary who has been elected a Commissioner shall lose that office upon written intimation being sent by his constituent to the Trustee that he has recalled the mandate, and the Trustee shall immediately record the intimation in the Sederunt Book; and the Trustee shall, in all cases where a Commissioner has declined or ceased to act, call a meeting of Creditors for the purpose of electing a new Commissioner, and such Commissioner shall be elected in manner hereinbefore provided.

57.
Election of Commissioners.

Disqualification.

And be it Enacted, That the Commissioners shall superintend the proceedings of the Trustee, concur with him in submissions and transactions, give their advice and assistance relative to the management of the estate, examine the acts and intromissions of the Trustee, audit his accounts, decide as to paying or postponing payment of a dividend, fix his remuneration (subject to the review of the Sheriff), and may assemble at any time to ascertain the situation of the Bankrupt estate; and any One of them may make such report as he may think proper to a general meeting of the Creditors.

58.
Duties of Commissioners.

59.
Offer of Com-
position may
be made at
this Meeting.

Renewal of
personal Pro-
tection.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, an offer of composition may be made to the Creditors in manner hereinafter provided; and the majority in number and value of the Creditors present may resolve that the personal protection of the Bankrupt ought to be renewed, and in such case the Trustee shall apply to the Sheriff, who shall renew the protection; and the deliverance by him renewing the same, or an extract thereof signed by the Sheriff Clerk, shall have the same effect as the original warrant of protection.

60.
Allowance to
Bankrupt.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, Four-fifths in value of the Creditors present may authorize payment from time to time to the Bankrupt, or to the partners of a Company (if the Sequestration be of a Company estate), of such sum out of the estate as they shall think proper for subsistence until the period assigned for payment of the second dividend, but such allowance shall not exceed Three Guineas per week to the Bankrupt, or to each individual partner of a company from the date of the Sequestration to the period aforesaid; and no allowance shall be given if the Bankrupt shall not have complied with the provisions of this Act.

61.
Entry of Con-
firmation in
Register of
Adjudica-
tions.

And be it Enacted, That the Trustee, within Twenty-one Days after his election is confirmed, shall present an abbreviate, signed by him or his agent, in the form of Schedule (G.) hereunto annexed to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and the like proceeding shall take place within Twenty-one Days after the election of each new Trustee shall be confirmed.

62.
Trustee's
Duties.

Money to
be lodged in
Bank.

And be it Enacted, That the Trustee shall manage, realize and recover the estate belonging to the Bankrupt wherever situated, and convert the same into money, according to the directions given by the Creditors at any meeting, and if no such directions are given, he shall do so, with the advice of the Commissioners; and he as well as the Interim Factor or Sheriff Clerk shall lodge all money which he may receive in such Bank as Four-fifths of the Creditors in number and value at any general meeting shall appoint, and failing such appointment in one or other of the following Banks; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company, the Commercial Bank of Scotland, or the National Bank of Scotland (provided that the Bank be not one in which the Interim Factor or Trustee, or any Commissioner shall be

be an acting partner, manager, or cashier); and the same shall be lodged in the name of the Interim Factor, or Sheriff Clerk, or Trustee in his official character under this Act, at the highest rate of interest which can be procured for the same; and such Bank shall, once yearly at least, balance the said account, and accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if the Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated.

10 And be it Enacted, That if either the Interim Factor, or Sheriff Clerk or Trustee, shall keep in his hands more than Fifty Pounds of cash belonging to the estate for more than Ten Days, he shall pay a sum to the Creditors at the rate of Twenty per centum per annum on the excess of the said sum of Fifty Pounds, for such time as it shall be in his hands beyond the said Ten Days; and unless the money has been kept from innocent causes, the Interim Factor or Trustee shall be dismissed from his office upon petition to the Lord Ordinary by any Creditor, and be liable in expenses, and have no claim to remuneration.

63.
Twenty per cent. on Money not lodged.

20 And be it Enacted, That the Trustee shall keep a Sederunt Book, in which he shall record all minutes of Creditors and of Commissioners states of Accounts, Reports, and all the proceedings necessary to give a correct view of the management of the estate, and he shall also keep regular Accounts of the affairs of the estate, and transmit to the Bill Chamber Clerk before each of the periods herein assigned for payment of a dividend, a Copy certified by himself of such Accounts, and such copies shall be preserved in the office of the said Clerk; and the said Sederunt Book and Accounts shall be patent to the Commissioners, and to the Creditors or their agents at all times: Provided always, That where any document is of a confidential nature (such as the opinion of counsel in regard to any matter affecting the interests of the Creditors on the estate), the Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit it to any other person than the Commissioners, unless he be ordered by competent authority to do so.

64.
Trustee to keep a Sederunt Book and Accounts, and send copy of Accounts to Clerk.

And be it Enacted, That the Interim Factor, Sheriff Clerk, Trustee and Commissioners shall be amenable to the Lord Ordinary and to the said Sheriff, although resident beyond the territory of the said Sheriff, at the instance of any party interested, to account for their intromissions and management, by petition, served on them; and in case it shall appear that such application ought not to have been made, the party complained of shall be entitled to his full expenses

65.
Interim Factor, Sheriff Clerk, Trustee and Commissioners amenable to Lord Ordinary and Sheriff.

to be either retained out of the funds or recovered from the party complaining, as the Lord Ordinary or the Sheriff shall direct.

66.
Sheriff to
appoint day
to examine
Bankrupt;
and Meeting
of Creditors
to be pub-
lished.

And be it Enacted, That the Trustee shall within Eight Days after the date of confirmation, apply to the Sheriff to name a day for the public examination of the Bankrupt; and the Sheriff shall 5 issue his warrant for the Bankrupt to attend within the Sheriff Court-house or other convenient place, on a day and at an hour (being not sooner than Fourteen Days nor later than Twenty-one Days from the date of his warrant), and on the Sheriff granting such warrant, the Trustee shall publish an advertisement, in terms of 10 Schedule (H.) hereunto annexed, in the Edinburgh Gazette, intimating to the Creditors his name and designation, his election as Trustee, the day, hour and place fixed for the examination of the Bankrupt, and also a specified day (being not sooner than Fourteen Days nor later than Twenty-one Days after the day appointed for 15 the examination of the Bankrupt), and the hour and place for holding a meeting of the Creditors.

67.
Warrant to
apprehend
Bankrupt for
examination.

And be it Enacted, That it shall be competent for the Sheriff to grant warrant to apprehend the Bankrupt, and bring him before the Sheriff for examination; and if the Bankrupt be incarcerated 20 for a debt or other civil obligation, within Scotland, the Sheriff may grant warrant to Magistrates and gaolers, on receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the officer presenting the same, and they shall do so accordingly; and the Sheriff may also grant warrant 25 to bring the Bankrupt from the Sanctuary, which warrant shall protect against arrest for debt, or other civil obligation, while under examination, and on the way to and from the place of examination; and such warrants shall be sufficient authority, either within or beyond the territory of the said Sheriff, in Scotland, to messengers 30 at arms, and to the officers of the said Sheriff, to apprehend, transmit detain, and incarcerate, and to gaolers to deliver up, receive and detain the Bankrupt until his examination is concluded, and also for his retransmission after examination to the gaol from which he was delivered up, and reincarceration therein; and if 35 the Bankrupt cannot conveniently be brought from gaol or the Sanctuary, or cannot be examined by the Sheriff there, or is by a lawful cause prevented from attending at the time and place appointed, or is in custody on a criminal charge, or is abroad, the Sheriff may grant commission to take the examination; and where 40 the Bankrupt cannot be examined, the Trustee may proceed with such other examinations as are hereinafter directed; and the Sheriff or Commissioner may, if he shall see cause, adjourn the examination

tion of the Bankrupt to an early time to be then fixed, and the Sheriff may, on the application of the Trustee, order the Bankrupt to be examined as often as he shall see fit; and the examination may, at the discretion of the Sheriff, be upon oath.

5 And be it Enacted, That if the Bankrupt be in any part of Great Britain and Ireland other than Scotland, the Lord Ordinary may, on petition by the Trustee, grant warrant, under the seal of the Court of Session, to all Judges, Magistrates, Justices of the Peace and Officers of the law, to apprehend and transmit him to the place
10 of his examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in prison or custody, the Lord Ordinary may grant warrant, as aforesaid, to Magistrates and gaolers, upon receiving a duplicate of such act and warrant, and an acknowledgment for the person of the Bankrupt, to deliver him
15 to the messenger or officer presenting such warrant, which they shall do accordingly; and such warrant shall be sufficient authority for the apprehension, transmission, detention and incarceration of the Bankrupt (where necessary for his safe custody) and for his retransmission after examination to and re-incarceration in the prison
20 or custody from which he was delivered up.

68.
Warrant
where the
Bankrupt is
in England
or Ireland.

And be it Enacted, That the Sheriff may at any time, on the application of the Trustee, order an examination of the Bankrupt's wife and family, clerks, servants, factors, law agents and others who can give information relative to his estate, either by declaration or on oath, as to the Sheriff shall seem fit; and issue his warrant requiring such persons to appear; and if they refuse or neglect to appear when duly summoned, the Sheriff may issue another warrant to apprehend the person so failing to appear: Provided that where such person is not the Bankrupt, nor his wife,
25 nor one of his family, nor his clerk or servant, no warrant for apprehension shall be issued until the expiration of Eight Days from the service of the first warrant, unless the Trustee shall on oath specify a reasonable cause of belief that such person intends to leave the country to avoid the examination, in which case the Sheriff
35 may forthwith issue such warrant; which several warrants shall be sufficient to authorize messengers at arms, or the officers of the said Sheriff, to execute the same either within or without the territory of the Sheriff in Scotland as aforesaid; and if any person liable to be examined as aforesaid cannot conveniently attend for examination,
40 the Sheriff may grant commission to take his examination, and such examination, whether by the Sheriff or by a commissioner, may be adjourned, if seen fit, to an early time to be then fixed.

69.
Other persons
may be
examined,
and, if necessary,
apprehended.

70.
Must answer
all lawful
questions, &c.

Parties
entitled to
expenses as
Witnesses.

And be it Enacted, That the Bankrupt and the said persons shall answer all lawful questions relating to the affairs of the Bankrupt; and the Sheriff may order such persons to produce for inspection any books of account, papers, deeds, writings, or other documents in their custody relative to the Bankrupt's affairs, and cause the same or copies thereof to be delivered to the Trustee: Provided that persons other than the Bankrupt, summoned to attend for examination, shall be entitled to such allowances as witnesses are in other cases entitled to, and the amount of which, if disputed, shall be fixed by the Sheriff.

71.
Effect of re-
fusal to
answer, &c.

And be it Enacted, That if the Bankrupt, or any of the said persons, shall refuse to be sworn, or to answer, to the satisfaction of the Sheriff, any lawful question put to him by the Sheriff or Trustee, or by any Creditor with the sanction of the Sheriff, or without lawful cause shall refuse to sign his examination, or to produce books, deeds or other documents in his custody or power relating to the estate, the Sheriff may grant warrant to commit him to prison, there to remain until he comply with the order; which warrant shall specify the question and answer, book, deed, document, or the refusal to swear or to sign the examination; and such warrant shall not be subject to the review of the Court of Session, but the Bankrupt or person incarcerated may apply by written petition (without argument) to the Lord Ordinary for a recall of the warrant; and the Lord Ordinary shall order the petition to be served on the Trustee or the said Creditor, and shall thereafter hear parties vivâ voce, and pronounce judgment.

72.
Latent Part-
ners must
disclose
themselves.

And be it Enacted, That if any Latent Partner of a company whose estates have been sequestrated shall not, by intimation to the Interim Factor or Trustee, acknowledge that he is a partner, on or before the day appointed for the examination of the known partners, he shall not be entitled to the benefits or privileges of this Act, unless in an application for the same he satisfy the Lord Ordinary that the omission proceeded from innocent mistake, or ignorance of the proceedings, or reasonable misconception as to his liability as a partner, and unless he shall then follow out all necessary steps for remedying, as far as possible, the loss and inconvenience thence arising.

73.
Bankrupt
may correct
his State, and
must take
Oath.

And be it Enacted, That the Bankrupt, before the close of his examination, may make such additions to or alterations upon the state of his affairs as may have occurred to him to be necessary to give a full view of his affairs, which state, with the additions and alterations, shall be subscribed by the Sheriff and the Bankrupt; and the Bankrupt shall then take the following oath, which shall be

be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said state; and where the Bankrupt is a partner with others, and examined respecting the affairs of the partnership, the words of the oath shall so far be varied as to make it applicable to the case; and when he is by law entitled to make an affirmation in place of an oath, it shall be sufficient to take his solemn affirmation upon the matters contained in the said oath, which shall be engrossed and subscribed as aforesaid:

“I DO, in the presence of Almighty God, and as I shall answer to Oath.
 10 God at the great Day of Judgment, solemnly swear, That the state of my affairs subscribed by me, as relative hereto, contains a full and true account, to the best of my knowledge and belief, of all the debts of whatever nature due to me, and
 15 of all my estate and effects, heritable and moveable, real and personal, wherever situated (the necessary wearing-apparel of myself, my wife and family, only excepted), as well as of all claims which I am entitled to make against any person or persons whatsoever, and of all estate in expectancy, or means
 20 of whatever kind to which I have an eventual right by contract of marriage, trust-deed, settlement, deed of entail, or otherwise; and that the said state likewise contains a full and true account of all debts due by me, or demands upon me; and that I have delivered up the whole books, documents, accounts, title-deeds, and papers of every kind be-
 25 longing to me which in any way relate to my affairs, and which were or are in my possession or under my power; and that I have made a full disclosure of every particular relating to my affairs: And further I promise and swear, That I will forthwith reveal all and every other circumstance or particu-
 30 lar relative to my affairs which may hereafter come to my knowledge, and which may tend to increase or diminish the estate in which my Creditors may be interested, directly or indirectly.
 So help me GOD.”

And be it Enacted, That within Fourteen Days after the examination of the Bankrupt, the Trustee shall prepare a Report, setting forth the state of the Bankrupt's affairs, and an estimate of what it may produce, which Report he shall exhibit at the meeting of the Creditors to be held after the examination of the Bankrupt, and give all explanations relative thereto; and the Creditors then assembled may receive any offer of composition as hereinafter provided, and may, either at this or any other meeting called for the purpose, give directions for the recovery, management and disposal of the estate, and as to whether the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale.

74.
 Meeting to be held and Trustees to prepare Report after Bankrupt's examination.

75.
Meetings may
be called at
any time.

And be it Enacted, That the Trustee or any Commissioner may at any time call a meeting of the Creditors, and the Trustee shall call such meeting when required by One-fourth in value of the Creditors ranked on the estate.

76.
Advertise-
ments of
Meetings.

And be it Enacted, That wherever it is in this Act directed that a meeting of Creditors shall or may be called or held, a notice of the day, hour, place and purpose of the meeting shall be advertised in the Edinburgh Gazette Fourteen Days at least before the day of the meeting, and such meeting may be adjourned to the following day. 5

77.
To what
Creditors
Notices
through Post
Office not to
be sent.

And be it Enacted, That it shall not in any case be necessary to send any notification, as is by this Act directed to be sent, by post to any Creditor whose debt shall be under Twenty Pounds, unless such Creditor shall have given directions in writing that such notification shall be sent; and no notification shall be sent to any Creditor who has directed that none shall be sent. 15

78.
Removal or
resignation of
Trustee.

And be it Enacted, That a majority in number and value of the Creditors present at any meeting to be called by an advertisement published in the Edinburgh Gazette at least Fourteen Days before such meeting, specifying the purpose of the meeting, may remove the Trustees or accept of his resignation; and One-fourth of the Creditors in value may at any time apply by petition to the Lord Ordinary for removal of the Trustee; and the Lord Ordinary shall order the said petition to be served on the Trustee, and intimated in the Edinburgh Gazette: And if the Lord Ordinary shall be satisfied that sufficient reason has been shown, he shall remove the Trustee, and appoint a meeting of the Creditors to be held for devolving the estate on the Trustee next in succession, or electing a new Trustee: And if the Trustee shall die, resign or be removed, or remain at any one time for Three Months furth of Scotland, any Commissioner or any Creditor claiming and entitled to be ranked, or ranked on the estate, may apply to the Sheriff for an order to hold a meeting for devolving the estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant warrant to hold such meeting at a certain time and place, which shall be advertised in the Edinburgh Gazette by the Commissioner or Creditor so applying; and at the time and place so appointed, the Creditors at such meeting may devolve the estate on the Trustee next in succession, or elect a new Trustee; and where the estate is devolved on such Trustee, the said Creditors shall fix the amount for which he shall find security, and on a bond being lodged the Sheriff shall confirm him, and an act and warrant shall be issued and recorded in the same way and to the same effect as on the first election 20 25 30 35 40

election of a Trustee ; and in like manner in all cases of a new election of a Trustee, the procedure shall take place in the same way as is hereinbefore provided for the case of the first election ; and the succeeding or the new Trustee shall be vested with the powers, and shall perform the duties, and be subject to the same rules as are herein before provided, and shall call to account the former Trustee or his heirs and representatives.

And be it Enacted, That the moveable estate and effects of the Bankrupt, wherever situated, so far as attachable for debt, shall, by virtue of the act and warrant of confirmation in favour of the Trustee, be transferred to and vested in him or any succeeding Trustee for behoof of the Creditors, absolutely and irredeemably as at the date of the first deliverance in the Sequestration, with every right, title, and interest which was then in the Bankrupt, to the same effect as if actual delivery or possession had been obtained or intimation made at that date, subject always to such preferable securities as existed at the date of the Sequestration, and are not null or reducible.

79.
Vesting of the
moveable
Estate in the
Trustee.

And be it Enacted, That the whole heritable estates belonging to the Bankrupt in Scotland shall, by virtue of the said act and warrant be transferred to and vested in the Trustee or any succeeding Trustee for behoof foresaid, absolutely and irredeemably, as at the date of the first deliverance in the Sequestration, to the same effect as if a decree of adjudication in implement of sale, as well as a decree of adjudication for payment and in security of debt, subject to no legal reversion, had been pronounced in favour of the Trustee, and recorded at the date of the first deliverance in the Sequestration, and as if a poinding of the ground had then been executed, subject always to such preferable securities as existed at the date of the Sequestration, and are not null and reducible ; and the right of the Trustee shall not be challengeable on the ground of any prior inhibition (saving the effect which such inhibition may be entitled to in the ranking of the Creditors) : Provided always, That such transfer and vesting of the heritable estate shall have no effect upon the rights of the superior, nor upon any question of succession between the heir and executor of any Creditor claiming on the sequestrated estate, nor upon the rights of the Creditors of the ancestor (except that the act and warrant of confirmation shall operate in their favour as complete diligence) ; and if the right to any part of the Bankrupt's heritable estate be entailed or otherwise limited, the right vested in the Trustee shall be effectual only to the extent of the interest in the estate which the Bankrupt might legally convey, or which the Creditors might validly attach.

80.
Vesting of
the heritable
Estate in the
Trustee with
all right, title
and interest
which was
then in the
Bankrupt.

Limitations
and qualifica-
tions of the
Trustee's
right.

81.
Estates in
England,
Ireland and
other British
dominions.

And be it Enacted, That all lands, tenements and hereditaments in England, Ireland or in any of Her Majesty's dominions, to which the Bankrupt is entitled, and all interest to which he is entitled in any such lands, tenements or hereditaments, and of which he might, according to the laws of England, Ireland, or other Her Majesty's dominions, have disposed, and all such lands tenements and hereditaments which he shall purchase, or which shall descend, be devised, revert to, or come to the Bankrupt before he shall have obtained his discharge, and all deeds, papers and writings respecting the same, shall, by virtue of the act and warrant of confirmation, vest in and belong to the Trustee for the purposes of this Act, as at the date of the Sequestration: Provided that where, according to the laws of England, Ireland or other Her Majesty's dominions, any deed or conveyance would require registration, enrolment or recording, the act and warrant of confirmation shall be so registered, enrolled or recorded according to the laws of England, Ireland or other Her Majesty's dominions; and if any purchase is made by any person for valuable consideration, and without notice of the Sequestration, prior to the registration, enrolment, or recording of the said act and warrant of confirmation, such purchase shall not be invalidated by the existence of such act and warrant, or the subsequent registration, enrolment or recording thereof.

82.
Acquisitions
of Bankrupt
after the Se-
questration to
belong to the
Creditors.

And be it Enacted, That if any estate, wherever situated, shall, after the date of the Sequestration, and before the Bankrupt has obtained his discharge, be acquired by him, or descend or come to him, the same shall ipso jure fall under the Sequestration, and the full right and interest accruing thereon to the Bankrupt shall be held as transferred to and vested in the Trustee for the purposes of this Act; and the Trustee shall, on coming to the knowledge of the fact, present a petition setting forth the circumstance to the Lord Ordinary, who shall appoint intimation to be made in the Edinburgh Gazette, and require all concerned to appear within a certain time for their interest; and after the expiration thereof, and no cause shown to the contrary, the Lord Ordinary shall declare all right and interest in such estate which belongs to the Bankrupt to be vested in the Trustee, as at the date of the acquisition thereof or succession thereto, to the same effect as is hereinbefore enacted in regard to the other estates; and the proceeds thereof when sold shall be divided in terms of this Act; and if the Bankrupt do not immediately notify to the Trustee that such estate has been acquired or has come to him as aforesaid, he shall forfeit all the benefits of this Act, and it shall be competent to the Trustee to examine him as aforesaid in relation thereto: Provided always, That the rights of the Creditors of the person from whom such estate shall come or descend to the Bankrupt shall be reserved entire.

And

And be it Enacted, That the Sequestration shall, as at the date of the first deliverance, be equivalent to a decree of adjudication of the heritable estates of the Bankrupt for payment of the whole debts of the Bankrupt, principal and interest, accumulated at the date of the first deliverance, and when it is dated within year and day of any effectual adjudication, the estate shall be disposed of under the Sequestration, according to the provisions of this Act: Provided always, That nothing herein contained shall affect the rights of any heritable Creditor holding a power of sale preferable to the Trustee.

83.
Sequestration equivalent to an Adjudication in Competition.

And be it Enacted, That the Sequestration shall, as at the date of the first deliverance, be equivalent to an arrestment in execution and decree of forthcoming, and to an executed or completed poinding; and no arrestment or poinding executed of the funds or effects of the Bankrupt on or after the Sixtieth Day prior to the Sequestration, or executed after the date of the Sequestration shall be effectual; and such funds or effects or the proceeds of such effects, if sold, shall be made forthcoming to the Trustee: Provided that the arrester or poinder, before the date of the Sequestration, who shall be thus deprived of the benefit of his diligence, shall have preference out of such funds or effects for the expense bonâ fide incurred by him in such diligence.

84.
And to Arrestment and Poinding.
Diligence Sixty Days before Sequestration, or after it is effectual.

Expenses of Diligence.

And be it Enacted, That where the Sequestration of the estates of a deceased Debtor is dated within Seven Months after his death, any preference or security for any prior debt acquired by legal diligence on or after the Sixtieth Day before his death, or subsequent to his death, and any preference or security acquired for a prior debt by any act or deed of the Debtor, which has not been lawfully completed more than at least Sixty Days before his death, and any confirmation as Executor Creditor after the Debtor's death, shall in these several cases be of no effect in competition with the Trustee; and the estates and effects over which such preferences or securities shall have been obtained, or of which confirmation shall have been expedited, shall belong to the Trustee: Provided always, That the Creditor who is so deprived of the benefit of his diligence or confirmation, shall have preference for payment out of the said estates or effects of the expenses bonâ fide incurred by him in such diligence or confirmation.

85.
Preferences in case of a deceased Debtor.

And be it Enacted, That all payments and preferences obtained by or granted to prior Creditors, and all acts done or deeds granted by the Bankrupt after the date of the Sequestration and before his discharge out of or in relation to the estate (unless with the consent of the Interim Factor or Trustee) shall in the event of Sequestration

86.
Acts and Payments by Bankrupt after Sequestration null, except in certain cases.

tion being awarded be null and void; and the Trustee shall be entitled to such preference and to any money after such date, so paid, deducting any expense bonâ fide incurred; but if a bonâ fide purchaser is in possession of moveable effects received from the Bankrupt after the Sequestration, when ignorant thereof, for a price paid, or which he is ready to pay, he shall not be obliged to restore the effects; and if a Debtor, ignorant of the Sequestration, shall have paid his debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a second time to the Trustee; and if the possessor of any bill or promissory note, with recourse on other parties, which is payable by the Bankrupt, or of a security for a debt due by the Bankrupt over any part of the estate of the Bankrupt, shall have received payment of his debt from the Bankrupt in ignorance of the Sequestration, and given up such bill, promissory note or security to the Bankrupt, such person shall not be liable to repay to the Trustee the amount so received, unless the Trustee shall replace him in the situation in which he stood, or reimburse him for any loss or damage.

87.
Subjects im-
properly in-
cluded in
Sequestration
may be struck
out.

And be it Enacted, That any person claiming right to any estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such estate struck out of the Sequestration; and the Lord Ordinary shall order the Trustee to answer within a certain time, and on expiration of such time he shall proceed to dispose of the application.

88.
Trustee may
complete
feudal Titles,
or grant such
Rights as
Bankrupt
could do.

And be it Enacted, That the Bankrupt shall, if required, grant all deeds necessary for recovering and feudally vesting his estates in the Trustee for the purposes of this Act; and if the Bankrupt's title to any estate has not been completed, the Trustee may complete titles in his own person, whom failing in favour of any Trustee who may succeed him, for behoof of the Creditors, or in the person of the Bankrupt; and superiors shall, if required, enter the Trustee, or the purchaser from him, in terms of law; and the Trustee may, without making up a feudal title in his person, and without concurrence of the Bankrupt, grant conveyances of the heritable estate belonging to the Bankrupt, with such procuratories, precepts or other warrants as the Bankrupt might competently have granted, which conveyances shall be as effectual to the purchaser as if they had been granted by the Bankrupt with concurrence of the Trustee, and shall not be affected by any inhibition against the Bankrupt, reserving the effect of such inhibition in the ranking.

89.
Trustee may
get Property
transferred to
him, although
Heir of Bank-

And be it Enacted, That where Sequestration is awarded against the estate of a person after his death, and his successor has made up a title to his heritable estate, the Trustee may apply by petition to the

the Lord Ordinary, praying that such estate shall be transferred to and vested in him ; and the Lord Ordinary shall order the petition to be served upon such successor, and require him to answer the same within Fourteen Days ; and on such petition and deliverance being
 5 recorded in the Register of Inhibitions, it shall have the effect of an Inhibition ; and if on expiration of that period no cause is shown to the contrary, the Lord Ordinary shall declare such estate to be transferred to and vested in the Trustee as at the date of the Sequestration, to the same effect as is hereinbefore provided, in
 10 regard to the act and warrant of confirmation ; and the Trustee shall within Eight Days thereafter cause such decree to be recorded in the Register of Abbreviates of Adjudications, as before provided.

rupt has made up Titles.

Decree to be recorded in Register of Adjudications.

And be it Enacted, That if the Creditors at the meeting held after the examination of the Bankrupt, or at any other meeting
 15 called for the purpose, resolve that the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale, and if such resolution has been made before a Creditor holding a power of sale shall have commenced proceedings for sale, or if such proceedings, after being commenced at the date of such resolution, have
 20 thereafter been unduly delayed, such Creditor shall not be entitled to interfere with the sale by the Trustee.

90.
 Circumstances in which Heritable Creditors not to interfere with Sale by Trustee.

And be it Enacted, That if a public sale of the heritable estate be resolved on, such sale shall be made by auction at the upset price, and in the manner which shall be fixed by the Trustee,
 25 with consent of the Commissioners ; and if the estate be sold, the Trustee, with consent of the Commissioners, shall grant a disposition to the purchaser, which shall have the effect of conveying whatever right is in the Trustee, under burden of the securities preferable to the right of the Trustee, but shall discharge the estate of all securities
 30 not preferable to the right of the Trustee, and of all diligence not completed at the date of the Sequestration.

91.
 Public Sale of Heritable Subjects ;

Effect on Securities.

And be it Enacted, That if a Creditor holding an heritable security, with a power to sell, concur with the Trustee in bringing the estate to sale, the Trustee shall sell the same in his own name,
 35 and the articles of roup and conveyance to the purchaser, shall be executed by the Trustee, with consent of the said Creditor and the Commissioners, and the price shall be paid by the purchaser to the parties legally entitled thereto, and, in so far as not paid at the time of the delivery of the conveyance, it shall be consigned in the bank
 40 in which the money of the sequestrated estate is deposited ; which payment or consignment of the price shall free and discharge the estate sold and the purchaser from all securities preferable to that of the said consenting Creditor, in so far as the debts in such securities

92.
 Heritable Creditor may allow Trustee to sell.

are satisfied by such payment or consignment, and also from the security of the consenting Creditor, whether the debt in such security be satisfied or not, and from all securities postponed to the security of such Creditor.

93.
Heritable
Creditor, with
power to sell,
may sell.

And be it Enacted, That a Creditor who holds an heritable security preferable to the right of the Trustee, with a power to sell, may sell in terms of his Bond, notwithstanding the Sequestration; and it shall be competent to the Trustee to concur therein, in order to fortify the title; and he, or any posterior heritable Creditor preferable to him may, by petition to the Lord Ordinary or to the Sheriff, compel the Creditor and the purchaser to account for any reversion of the price. 5 10

94.
Judicial Sale.

Disposal of
Price.

And be it Enacted, That if the Creditors assembled as aforesaid shall resolve on a judicial sale, the Trustee shall institute such an action, which may be carried on as to a part or the whole of the estate, and without any other proof of Bankruptcy than the act of Sequestration; and every heritable Creditor in possession shall be cited upon induciæ of Fifteen Days, whether within Scotland or not, and it shall not be necessary to call any other parties; and on the estate being sold, the price, after satisfying any securities preferable to the right of the Trustee, shall be paid by the purchaser to the Trustee; and the purchaser shall, upon payment of the price, receive a discharge from the Trustee, which, with the decree of sale, shall free and discharge the estate in the same way as a decree of sale in an action of ranking and sale. 15 20 25

95.
Expenses
as against
Heritable
Creditors.

And be it Enacted, That no part of the expenses of the Sequestration, nor of the sale in any way of the heritable estate, nor of the Trustee's Commission, shall be payable out of such part of the price as may be necessary to discharge the securities on the heritable estate preferable to the right of the Trustee; and no heritable Creditor, or Creditor preferable to the Trustee on the heritable estate, shall be liable for the expense of the Sequestration, or the Trustee's commission, nor of such sale, unless he shall have consented to the sale, in which case he shall be liable for the expense of the sale. 30

96.
Heritable
Creditor's
right to
pound the
Ground limit-
ed.

And be it Enacted, That no poinding of the ground and no decree of maills and duties which has not been carried into full and complete execution by sale of the effects or charge on the said decree, at least Sixty Days before the date of the first deliverance in the Sequestration, shall (except to the extent hereinafter provided) be available in any question with the Interim Factor or Trustee: Provided always, That no Creditor who holds a security over the heritable estate preferable to the right of the Trustee shall be prevented 35 40

prevented by the Sequestration from executing a poinding of the ground, or obtaining a decree of maills and duties; but such poinding or decree shall, in competition with the Trustee, be available only for the interest on the debt for the current term, and for the arrear of interest for One Year immediately before the commencement of such term.

And be it Enacted, That nothing herein contained shall affect the landlord's right of hypothec.

97.
Landlord's
Hypothes
saved.

And be it Enacted, That the Lord Ordinary or Sheriff, on cause shown, may order that, for a period not exceeding Three Months from the date of the order, all letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the officers acting under him, to the Interim Factor or Trustee, to be opened in presence of the Sheriff, after written notice to the Bankrupt to attend, if within Scotland; and in case the letters shall relate in whole or in part to the estate, they shall be placed in such custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on cause shown, renew such order for a like period as often as shall be necessary.

98.
Interim Fac-
tor or Trustee
may be au-
thorized to
receive and
open Post
Letters.

And be it Enacted, That the Trustee may, with consent of the Commissioners, compound and transact or refer to arbitration any questions which may arise in the course of the Sequestration regarding the estate, or any demand or claim made thereon, and the compromise, transaction or decree-arbitral shall be binding on the Creditors and the Bankrupt.

99.
Trustee and
Commis-
sioners may
submit and
transact.

And be it Enacted, That where any estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but the Interim Factor, Sheriff Clerk if acting as Factor, Trustee or Commissioners, shall not be entitled to purchase.

100.
Creditors may
purchase.

And be it Enacted, That the whole estate when reduced into money shall, after paying all necessary charges and a commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the date of the Sequestration, ranked according to their several rights and interests.

101.
Realized
Estate to be
a Fund of
Division.

And be it Enacted, That where there are sufficient funds realized, the first dividend shall be payable on the first lawful day after the expiration of Eight Months from the date of the Sequestration; and the second dividend shall be payable on the first lawful day after the expiration

102.
Times at
which Divi-
dends to be
paid.

expiration of Twelve Months from the said date of the Sequestration ; and a dividend shall be payable on the first lawful day after the expiration of Four Months from the date of the payment of the immediately preceding dividend, until the whole funds of the Bankrupt be distributed, subject always to the provisions hereinafter made. 5

103.
Time within
which Credit-
ors to produce
oaths, &c.,
in order to
receive pay-
ment of
Dividends.

And be it Enacted, That to entitle any Creditor to payment of the first dividend, he shall produce, as hereinbefore directed, his oath and grounds of debt at least Two Months before the time fixed for payment of the first dividend : And to entitle any Creditor to payment of the second dividend, he shall produce as aforesaid his 10 oath and grounds of debt at least Two Months before the time fixed for payment of the second dividend : And to entitle a Creditor to payment of any of the subsequent dividends, he shall produce as aforesaid his oath and grounds of debt at least Two Months 15 before the day fixed for payment of the dividend which he means to claim : Provided, that if a Creditor has not produced his oath and grounds of debt in time to share in the first dividend, but has done so in time to share in the second dividend, he shall be entitled, on occasion of payment of the second dividend, to receive out of the first of the fund (if there be sufficient for that purpose) a sum 20 equal to the dividend he would have drawn, if he had claimed in time for the first dividend ; and the same rule shall apply as to all subsequent dividends.

104.
First Divi-
dend.
Trustee to
make up and
exhibit to
Commission-
ers State of
Funds.

Commission-
ers to resolve
as to payment
of Dividend,
&c.

And be it Enacted, That immediately on the expiration of Six Months from the date of the Sequestration, the Trustee shall proceed 25 to make up a state of the whole estate of the Bankrupt, of the funds recovered by him, and of the funds outstanding (specifying the cause why they have not been recovered), and of his intromissions, and generally of his management ; and within Fourteen Days after the expiration of the said Six Months, the Commissioners shall meet and 30 examine the said state, and ascertain whether the Trustee has lodged the monies recovered by him in Bank or not, and if he has failed to do so, they shall debit him with a sum at the rate of Twenty Pounds on every Hundred Pounds not so lodged, and so after that rate on any larger or smaller sum, being not less than Fifty Pounds ; and 35 they shall audit his accounts and settle the amount of his commission, and authorize him to take credit for such commission in his accounts with the estate ; and they shall certify, by a writing under their hands engrossed in the Sederunt Book, the balance due to or by the Trustee in his account with the estate as at the expiration of the said Six Months ; and they shall declare whether any and what 40 part of the net produce of the estate, after making a reasonable deduction for future expenses, shall be divided among the Creditors.

And

And be it Enacted, That the Trustee shall also within the said Fourteen Days, examine the oaths and grounds of debt, and in writing reject or admit them, or require further evidence in support thereof; and in case he shall reject any claim, he shall in his
5 deliverance state the grounds of such rejection; and he shall complete the list of the Creditors entitled to draw a dividend, specifying the amount of their debts, with interest thereon to the date of the Sequestration, and distinguishing whether they are ordinary Creditors, or preferable or contingent; and he shall make up a separate
10 list of any Creditors whose claims he has rejected in whole or in part.

105.
Trustee to make up List of Creditors entitled or not entitled to payment of Dividend.

And be it Enacted, That the Trustee shall give notice in the Edinburgh Gazette published next after expiration of the said Fourteen Days, of the time and place of the payment of the dividend, and
15 also notify the same by letters put into the Post Office on or before the first lawful day after the said Fourteen Days, addressed to each of the Creditors; and where he has rejected any claim, he shall notify the same to the claimant by letter as aforesaid, which shall also contain a copy of his deliverance, and specify the amount of dividend to
20 which the rejected claimant would be entitled if not rejected, or as near to the amount thereof as circumstances will permit; and a Certificate by the Trustee, or an execution by a messenger or Sheriff officer that such letters have been put into the Post Office, shall be sufficient evidence thereof: And if any Creditor be dissatisfied with
25 the decision of the Trustee, he may appeal by a short written note to the Lord Ordinary or to the Sheriff; but if no such note be lodged with and marked by the Bill Chamber or Sheriff Clerk (as the case may be) before the expiration of Thirty Days from the date of the publication in the Gazette of the said notice, the decision of the
30 Trustee shall be final and conclusive, so far as regards that dividend; and in case the claim have been rejected, such decision shall be without prejudice to any new claim being afterwards made in reference to future dividends, but which new claim shall not disturb prior dividends.

106.
And to publish and send Notices of payment of Dividend.

Creditors may appeal within a limited period.

35 And be it Enacted, That the Trustee shall, before the expiration of Eight Months from the date of the Sequestration, make up a scheme of division of the fund directed by the Commissioners to be divided, and apportion the same, according to their respective rights, among those Creditors whose claims have been sustained by him or
40 by the Lord Ordinary or Sheriff, or who shall have appealed against his decision, and which scheme shall be patent to all concerned.

107.
Trustee to make up Scheme of Division.

And be it Enacted, That on the said first lawful day after expiration of Eight Months from the date of Sequestration, and at the
552. place

108.
Dividends to be paid, and those dis-

puted or
claimed by
contingent
Creditors to
be lodged in
Bank.

place appointed, the Trustee shall pay to the Creditors the dividends allotted to them respectively in terms of the said scheme; and he shall lodge the dividends apportioned to those claims which are under appeal, but not finally determined, and the dividends effeiring to contingent Creditors, or other claimants not then entitled to uplift the same, in the Bank appointed by the Creditors, or, failing such appointment, in one of the said Banks in a separate account, or if the money be deposited in Bank he shall transfer it to a separate account, in name of himself and the Commissioners, to remain therein until the said appeals be disposed of, or the dividends are payable. 5 10

109.
Second Divi-
dend.

Trustee to
make up
State, &c.
and Commis-
sioners to
resolve as in
case of first
Dividend.

And be it Enacted, That on the expiration of Ten Months from the date of Sequestration, the Trustee shall again make up a state as hereinbefore provided, which he shall within Fourteen Days after the expiration of the said Ten Months exhibit to the Commissioners, who shall meet and adjust the state and perform the other acts and duties incumbent on them in manner before specified, and direct a second dividend to be paid, if there shall be funds to pay the same; and if the Commissioners shall direct a dividend to be paid, the Trustee shall also make up lists of the Creditors who are entitled and who are not entitled to payment of the dividend, and frame a scheme of division, and notify in the Gazette and by letters; and any Creditor may appeal, all as is hereinbefore provided for the first dividend. 15 20

110.
Dividend to
be paid.

And be it Enacted, That on the said first lawful day after the expiration of Twelve Months from the date of Sequestration, the Trustee shall make payment of the second dividend to those Creditors who are entitled to, and shall lodge the dividends disputed or not then payable, all as hereinbefore provided for the first dividend. 25

111.
Subsequent
Dividends.
Same pro-
ceedings as in
prior Divi-
dends.

And be it Enacted, That the like procedure shall be followed out as to subsequent dividends at similar intervals of time thereafter, in order that a dividend may be made on the first lawful day after the expiration of every Four Months from the day of payment of the immediately preceding dividend, until the whole funds of the Bankrupt shall be divided. 30 35

112.
Proceedings
when Com-
missioners
postpone the
Dividend.

And be it Enacted, That if it shall appear to the Commissioners that a dividend ought to be postponed, they may do so till the recurrence of another stated period for making a dividend, and they shall authorize the Trustee to give a notice to that effect in the next Edinburgh Gazette; provided that notwithstanding such postponement the state of the funds shall be made up, and the accounts of the Trustee audited at the time and in the manner before directed; and circulars containing a copy or abstract of the said state shall be 40

be sent by post to the Creditors, unless the Commissioners shall otherwise direct.

And be it Enacted, That if, on the lapse of Twelve Months from the date of Sequestration, it shall appear to the Trustee and Commissioners expedient to sell the heritable or moveable estates not disposed of, and any interest which the Creditors have in the outstanding debts and consigned dividends, they shall fix a day for holding a meeting of the Creditors to take the same into consideration; and the Trustee besides advertizing the same in the Edinburgh Gazette shall, 10 Fourteen Days before the day appointed, send by post to each Creditor claiming on the estate a notice of the time and place of the meeting, with a valuation of the estate and effects, and a list of the outstanding debts and of the consigned dividends; and if Three-fourths of the Creditors in value assembled at the meeting shall 15 decide in favour of a sale in whole or in lots, the Trustee shall sell the same by auction, after notice thereof published at least Once in the Edinburgh Gazette One Month previous to the sale, and in such other newspapers as the Creditors at the meeting shall appoint.

113.
Winding up
of Estate.

And be it Enacted, That at the meeting for election of Trustee, 20 the Bankrupt, or his friends, or, in case of his decease, his successors, and, in case of a Company, one or more of the partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if the majority of the Creditors in number, and Nine-tenths in value present at such meeting 25 shall resolve that the offer and security shall be entertained for consideration, the Trustee or Interim Factor or Sheriff Clerk (as the case may be) shall forthwith advertise in the Edinburgh Gazette a notice that an offer of composition has been so made and entertained, and that it will be decided upon at the meeting to be held 30 after the examination of the Bankrupt, and shall specify the hour, day and place, and also transmit, by post, letters to each of the Creditors claiming on the estate, or mentioned in the Bankrupt's state of affairs, containing a notice of such resolution, and of the day and hour at which, and the place where the said meeting is to be 35 held, and specifying the offer and security proposed, and giving an abstract of the state of the affairs and of the valuation of the the estate, so far as the same can be done to enable the Creditors to judge of the said offer and security.

114.
Discharge of
Bankrupt on
Composition.
Offer may be
made at the
Meeting for
election of
Trustee.

And be it Enacted, That if, at the meeting held after the 40 examination of the Bankrupt, a majority in number, and Nine-tenths in value of the Creditors there assembled shall accept the said offer and security, a Bond of Caution for payment of the composition executed by the Bankrupt, or his successors (as the case

115.
Offer, if entertained, to be
disposed of at
the meeting
after the
Bankrupt's
examination.

Lord Ordinary
or Sheriff to
approve.

may be), and the proposed Cautioner, shall be forthwith lodged in the hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a report of the resolution of the meeting, with the said bond, to the Bill Chamber Clerk or Sheriff Clerk, in order that the approval of the Lord Ordinary or Sheriff (whichever 5 may be selected by the Trustee) may be obtained thereto; and if the Lord Ordinary or the Sheriff, after hearing any objections by Creditors, shall find that the offer, with the security, has been duly made, and is reasonable, and has been assented to by a majority in number, and Nine-tenths in value, of all the Creditors 10 assembled at the said meeting, he shall pronounce a deliverance approving thereof; provided that he shall hear any objection by opposing Creditors; and if he shall refuse to sustain the offer or reject the vote of any Creditor, he shall specify the grounds of refusal or rejection. 15

116.

Offer on Composition may also be made at Meeting after Bankrupt's examination.

And be it Enacted, That in like manner at the meeting held after the examination of the Bankrupt, or at any subsequent meeting called for the purpose by the Trustee, with the consent of the Commissioners, the Bankrupt or his friends, or, in case of his decease, his successors, and, in the case of a Company, one or more of the 20 partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if a majority in number and Four-fifths in value of the Creditors present shall resolve that the offer and security shall be entertained for consideration, the Trustee shall call another meeting, to be held at 25 a certain hour on a specified day, being not less than Twenty-one Days thereafter, and at a specified place; and shall, Fourteen Days at least before such other meeting, advertise a notice of the same in the Edinburgh Gazette, and send by post letters addressed to each of the Creditors who have claimed on the estate, or are mentioned 30 in the Bankrupt's state of affairs, which letters shall contain a notice of such resolution, and of the hour, day and place, and purpose of the meeting, and specify the offer and the security proposed, and give an abstract of the state of the affairs and valuation of the estate, so far as can be done, to enable the Creditors to judge of the 35 said offer; and if, at the meeting so called, a majority in number and Four-fifths in value of the Creditors present shall accept the said offer and security, a Bond of Caution shall be lodged, and a report made, and a deliverance pronounced, all in the same manner and to the same effect as is hereinbefore provided. 40

117.

Bankrupt, on making Declaration or Oath, to obtain Discharge.

And be it Enacted, That on such deliverance being pronounced approving of the composition in either of the cases above specified, the Bankrupt shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or the Sheriff (as

(as the case may be) that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement or transaction, to obtain the concurrence of any
 5 Creditor to the said offer and security; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by a lawful cause prevented from occurring before the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or
 10 the Sheriff (as the case may be) on being satisfied with the said oath or deliverance, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration, and shall declare the Sequestration to be at an end, and the Bank-
 15 rupt re-invested in his estate (reserving always the claims of the Creditors for the said composition against him and the Cautioner); and the Bond of Caution shall be recorded in the Books of the Court of Session or Sheriff Court, when the said deliverance is pronounced by the Sheriff, and an extract thereof, signed by the Sheriff Clerk,
 20 shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same without enrolment to the Lord Ordinary, and the Lord Ordinary shall confirm the same, and the said deliverance of the Lord Ordinary, and the deliverance of the Sheriff when confirmed as aforesaid, shall operate as a complete discharge
 25 and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and Her Majesty's other dominions.

And be it Enacted, That before the Lord Ordinary or the Sheriff shall pronounce the said deliverance, the Commissioners shall audit
 30 the accounts of the Trustee, and ascertain the balance due to or by him, and fix the remuneration for his trouble, subject to the review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the expense attending the Sequestration and such remuneration shall be paid or provided
 35 for, to the satisfaction of the Trustee and Commissioners, before the said deliverance is pronounced.

And be it Enacted, That notwithstanding such offer of composition and proceedings consequent thereon, the Sequestration shall continue, and the Trustee shall proceed in the execution of his duty as
 40 if no such offer had been made, until the said deliverance by the Lord Ordinary be pronounced, when the Sequestration shall cease and be at an end, and the Trustee be exonerated and discharged: Provided nevertheless, That the Trustee and his Cautioner shall be

552.

F

liable,

118.

Trustee's
Accounts to
be audited,
and provision
made for his
Expenses and
Commission.

119.

Sequestration
to go on, not-
withstanding
offer of Com-
position.

On approval,
Sequestration
to cease.

liable, on summary petition to the Lord Ordinary or Sheriff, by the Bankrupt or his Cautioner for the composition, to account for his intromissions and other acts as Trustee.

120.
Bankrupt and
Cautioner not
to be entitled
to object to
Claims, &c.

And be it Enacted, That neither the Bankrupt nor the Cautioner for the composition shall be entitled to object to any debt which the Bankrupt has given up in the state of his affairs as due by him, or admitted without question to be reckoned in the acceptance of the said offer of composition ; nor to object to any preference or security held by any Creditor, unless in the offer of composition such preference or security, shall be stated as objected to, and notice in writing given to the Creditor holder thereof. 5 10

121.
Claims against
Cautioner
limited in
certain cases
to Two Years.

And be it Enacted, That no person who has not produced an oath as a Creditor before the date of the said deliverance on the offer of composition shall be entitled to make any demand against the Cautioner after the space of Two Years from the date of such deliverance, reserving to such Creditor his claim for the composition against the Bankrupt and his estate. 15

122.
If offer of
Composition
rejected, no
other to be
entertained,
unless Nine-
tenths of Cre-
ditors ranked
agree to do so.

And be it Enacted, That if an offer of composition has been made and rejected, or has become ineffectual, no other offer of composition shall be entertained unless Nine-tenths in number and value of all the Creditors ranked on the estate shall assent in writing to such offer ; which offer shall state the amount of composition and the terms of payment, and be subscribed by the Cautioner proposed, in which case a meeting shall be called by the Trustee for finally disposing of the same ; and if, at the meeting so called, a majority in number and Nine-tenths in value of the Creditors present shall accept the said offer and security, and the same shall be assented to by Nine-tenths in value of all the Creditors who have produced oaths as aforesaid, a Bond of Caution shall be lodged, and a report made, and deliverances pronounced, and the other proceedings shall take place and have effect in the same manner as is hereinbefore provided for other offers of composition. 20 25 30

123.
Discharge
without Com-
position.
Proceedings
for this pur-
pose.

And be it Enacted, That the Bankrupt may, at any time after the meeting held after his examination, petition the Lord Ordinary or the Sheriff to be finally discharged of all debts contracted by him before the date of the Sequestration, provided that every Creditor who has produced his oath as aforesaid shall concur in the petition ; and the Bankrupt may also present such petition on the expiration of Eight Months from the date of the Sequestration, provided a majority in number and Four-fifths in value of the Creditors who have produced oaths concur in the petition ; and the Lord Ordinary or 35 40

or the Sheriff (as the case may be) shall in either case order the petition to be intimated in the Edinburgh Gazette; and if, at the distance of not less than Twenty-one Days from the publication of such intimation, and on evidence being produced of concurrence as
 5 aforesaid, there be no appearance to oppose the same, the Lord Ordinary or the Sheriff (as the case may be) shall pronounce a deliverance finding the Bankrupt entitled to a discharge; but if appearance be made by any of the Creditors, or by the Trustee, the Lord Ordinary or the Sheriff (as the case may be) shall judge of any objections
 10 against granting the discharge, and either find the Bankrupt entitled to the discharge, or refuse the same, or annex such conditions thereto as the justice of the case may require.

And be it Enacted, That if the Bankrupt shall be found entitled to his discharge, he shall make a declaration, or, if required by the
 15 Trustee or any Creditor, an oath before the Lord Ordinary or Sheriff, that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, nor made or promised any payment, nor entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor
 20 to his discharge; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by lawful cause prevented from coming before the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be),
 25 on being satisfied with the said oath or declaration, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration; and when the said deliverance discharging the Bankrupt is pronounced by the Sheriff, an extract thereof, signed by the
 30 Sheriff Clerk, shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same, without enrolment, to the Lord Ordinary, and the Lord Ordinary shall confirm the same by a deliverance, and the said deliverance by the Lord Ordinary, as well as the said deliverance by the Sheriff, when confirmed as
 35 aforesaid, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and all Her Majesty's other dominions.

And be it Enacted, That all preferences, gratuities, securities and payments granted, made or promised, or other consideration not
 40 sanctioned by this Act, and all secret or collusive agreements and transactions, for concurring in, facilitating or obtaining the Bankrupt's discharge, either on or without an offer of composition, and whether the offer be accepted or not, or the discharge granted

124.

Bankrupt to
make a De-
claration or
Oath before
obtaining
Discharge.

125.

Preferences,
Payments and
collusive
Agreements
for Discharge.

or not, shall be null and void; and if during the Sequestration any Creditor shall have obtained any such preference, gratuity, security or payment, or promise thereof, or entered into such secret or collusive consideration or agreement and transaction, the Trustee shall be entitled to retain his dividend, and he or any Creditor ranked on the estate may present a petition to the Sheriff or to the Lord Ordinary, praying that such Creditor shall be found to have forfeited his debt, and be ordained to pay to the Trustee Double the amount of the preference, gratuity, security or payment, or other consideration given, made or promised; and if no cause be shown to the contrary, decree shall be pronounced accordingly; and the sums which in such case may be recovered shall, under deduction of the expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full payment of his debt to raise a multiplepoinding in name of the person who has obtained such preference, gratuity, security, payment or other consideration or promise as aforesaid; and on the value of the preference, gratuity, or security or amount of the sum paid or consideration obtained, being ascertained, such value or amount, together with the amount of the debt of the colluding Creditor, shall be ordered to be consigned by him as in a process of multiplepoinding, and the same being ascertained shall be divided among the Creditors who were ranked or were entitled to be ranked in the Sequestration, and have not received full payment of their debts, and who shall lodge claims in such multiplepoinding, according to their respective rights and interests: Provided that the said multiplepoinding shall be executed in terms of law against the colluding Creditor, and notice thereof at the same time be inserted in the Edinburgh Gazette; and in the event that there shall be any surplus after paying the full debts of the Creditors, and defraying the expenses of the Sequestration or other proceeding, the same shall be paid into the account of unclaimed dividends as hereinafter provided.

126.
Bankrupt to
forfeit privi-
leges, if par-
ticipant in
giving such
Preferences,
&c.

And be it Enacted, That if the Bankrupt shall have been personally concerned in, or cognizant of the granting, giving or promising any preference, gratuity, security or payment, or other consideration, or in any secret or collusive agreement or transaction as aforesaid, he shall forfeit all right to a discharge, and all benefits under this Act; and such discharge, if granted, either on or without an offer of composition, shall be annulled; and the Trustee or any one or more of the Creditors may apply by petition to the Lord Ordinary to have such discharge annulled accordingly.

And

And be it Enacted, That if it shall appear to a majority of the Creditors in number and value assembled at any meeting after the examination of the Bankrupt that he has not made a full and fair surrender of his estate, or that he has disposed of or concealed any part of his funds, to the prejudice of his Creditors, or that his Bankruptcy has been fraudulent, they may direct a meeting to be called for taking the subject into consideration on Fourteen Days' notice; and the said meeting, if they see cause, may authorize the Trustee to proceed against him in terms of law at the expense of the estate.

127.
If Bankrupt
do not make
a fair Surrender,
&c. to be
punished.

And be it Enacted, That it shall be competent to appeal against the resolutions of the Creditors at meetings, either to the Lord Ordinary or the Sheriff, provided a note of appeal shall be lodged with and marked by the Bill Chamber Clerk within Fourteen Days after the date of the meeting at which the resolution objected to has been passed, or (as the case may be) in the hands of and marked by the Sheriff Clerk within the like period; and it shall in like manner be competent to appeal against any deliverance of the Trustee to the Lord Ordinary or the Sheriff, provided the note of appeal shall be lodged and marked as aforesaid within Thirty Days from the date of the said deliverance (except in the case of dividends as hereinbefore specified); and where any such appeal is made, or any petition or complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the case may be) shall appoint a copy thereof, and of his deliverance thereon, to be served on the Respondent or his mandatory or known agent, and appoint the Respondent to appear at a specified diet within such period as may be reasonable; and the Lord Ordinary or the Sheriff (as the case may be) shall at such diet hear parties vivâ voce, and the Lord Ordinary shall proceed to dispose of the case summarily, with or without a record, as he shall consider best; and the Sheriff may also, without a record, decide, provided he shall specify the facts, and assign the grounds of his judgment; but if he shall see cause, he may order minutes to be lodged by the parties, containing their averments in fact and pleas in law, without argument, and may hold the same as a closed record, and proceed as in a summary cause; and in pronouncing his judgment, he shall assign his reasons; and it shall be competent to the Lord Ordinary or the Sheriff, where any resolution of a meeting of the Creditors is appealed against, to order a new meeting to be held, in order to reconsider the resolution.

128.
Judicial proceedings.

Appeals, &c.
against resolutions of
Creditors and deliverances
of Trustee, to the Lord
Ordinary or Sheriff.

And be it Enacted, That it shall be competent to bring under the review of the Inner House of the Court of Session any deliverance of the Sheriff (except where the same is declared not to be subject to

129.
Review of
Sheriff's
Judgments.

review), provided a note of appeal shall be lodged with and marked by the Bill Chamber Clerk within Twenty-one Days from the date of such deliverance (except in the case of appeals against a deliverance declaring the election of a Trustee, which shall be lodged as hereinbefore provided), failing which the same shall be final; and such reclaiming note shall be disposed of by the Inner House as speedily as the forms of Court will allow; and if it be lodged in time of vacation, the Lord Ordinary may hear parties and give judgment, subject to review of the Inner House; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff with instructions. 5 10

130.
Review of
Lord Ordinary's Judgments.

And be it Enacted, That where any judgment of the Lord Ordinary is intended to be brought under review of the Inner House, the same shall be done by a reclaiming note in common form.

131.
Regulation by
Sheriff of
Interim Possession.

And be it Enacted, That during the dependence of appeals, or petitions and complaints, it shall be competent to the Sheriff to give such orders as may be necessary to regulate the interim possession and administration of the estate. 15

132.
Appeals to
House of
Lords.

And be it Enacted, That if any appeal shall be made to the House of Lords, the Sequestration shall in all respects, not inconsistent with or injurious to the interests which may be affected by the appeal, proceed without interruption, and if necessary, the Lord Ordinary shall give such order as may be necessary to regulate the interim possession and management of the estate. 20

133.
Agents in
Court of Session may be
Agents in
causes under
this Act before
the Sheriff.

And be it Enacted, that it shall be lawful for all agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts in so far as relates to any of the proceedings authorized by this Act to be carried on before the Sheriff, provided that they shall not be entitled to payment of any higher fees than those legally exigible in such Courts. 25 30

134.
Trustee to
make an annual Return
to Sheriff
Clerk, and he
to Bill Chamber Clerk.

And be it Enacted, That each Trustee shall on the Thirty-first day of December yearly deliver free of expense to the Sheriff Clerk of the county a return, in the form of the Schedule marked (I.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall within Fourteen Days thereafter transmit, in the form of the said Schedule, to the Bill Chamber Clerk a return of all the Sequestrations depending in the sheriffdom whereof he is Clerk; and the Bill Chamber Clerk shall cause the returns so made to be regularly inserted in a volume to be kept at all times in his office, with an index thereto framed by the said Clerk, and which volume shall be patent to all concerned; and any Trustee who shall fail 35

fail to make such return shall be removable from his office at the instance of any one Creditor, or subject to such censure as the Lord Ordinary may think suitable, and be found liable in expenses.

And be it Enacted, That after a final division of the funds, the
 5 Trustee shall call a meeting of the Creditors by an advertisement
 in the Edinburgh Gazette, to be held not sooner than Twenty-one
 Days after such publication, specifying the time, place and purpose of
 holding the meeting, and by letters addressed by post to every Cre-
 10 ditor who has produced an oath as aforesaid, to consider as to an
 application for his discharge; and at such meeting he shall lay
 before the Creditors the sederunt book and accounts, with a list of
 unclaimed dividends; and the Creditors may then declare their
 opinion of his conduct as Trustee; and he may thereafter apply to
 15 the Lord Ordinary or the Sheriff, who, on advising the petition
 with the minutes of the meeting, and hearing any Creditor, may
 pronounce or refuse decree of exoneration and discharge; and such
 decree, if granted, shall be entered in the Register of Sequestrations,
 and the Bond of Caution for the Trustee delivered up.

135.
Trustee's
Discharge.

Proceedings
for this pur-
pose

And be it Enacted, That every Trustee in any Sequestration
 20 awarded under this Act shall, before his discharge, transmit the
 sederunt book to the Bill Chamber Clerk, who shall thereupon
 intimate to the Trustee the bank in which the unclaimed dividends
 are to be deposited, and he shall name the banks in the following
 25 rotation; videlicet, the Bank of Scotland, the Royal Bank of Scot-
 land, the Bank of the British Linen Company of Scotland, the Com-
 mercial Bank of Scotland, and the National Bank of Scotland; and
 the Trustee shall forthwith transfer the whole dividends not then
 claimed to the bank so intimated, to be there entered in an account
 to be kept under the title of "Account of unclaimed Dividends;"
 30 and a book or books shall be kept in the office of the Bill Chamber
 Clerk, showing such rotation, and containing a list, with the names
 arranged alphabetically, of all the Creditors entitled to such un-
 claimed dividends, and in what bank deposited, which shall be
 patent to all persons; and after the discharge of the Trustee, it shall
 35 be competent for any person producing evidence of his right, to apply
 to the Lord Ordinary for authority to receive such dividends, and,
 on the Lord Ordinary being satisfied of the claimant's right, a war-
 rant shall be granted for payment of such dividend, and upon such
 warrant the bank shall pay the same; provided that the claimant
 40 shall not be entitled to interest on such dividend, but such interest
 shall go into a general fund, of which an account shall be kept by
 such bank, to be called "The Interest Account of Unclaimed Divi-
 dends," and which fund shall be applied in such manner as shall
 be regulated by any Act of Parliament; and if at the end of Twenty-

136.
All Trustees
to lodge un-
claimed Divi-
dends, &c. in
Bank.

Claimants
showing
right to apply
to Lordordi-
nary.

Interest
Account of
Unclaimed
Dividends.

five Years from the date of closing any Sequestration there shall remain in the bank any unclaimed dividends belonging to the estate, the same shall be vested in Government stock, and the dividends thereon shall be regularly accumulated for the purpose of forming a fund for defraying the expense of proceedings in Bankruptcy, or otherwise as Parliament shall hereafter direct. 5

137.
Surplus to be
paid to Bank-
rupt.

And be it Enacted, That any surplus of the Bankrupt's estate and effects that may remain after payment of his debts, with interest, and the charges of recovering and distributing the estate, shall be paid to the Bankrupt or to his successors or assignees. 10

138.
Provisions as
to Perjury.

And be it Enacted, That if any person shall be guilty of wilful falsehood in any oath or affirmation made in pursuance of this Act, he shall be liable to a prosecution either at the instance of Her Majesty's Advocate, or at the instance of the Trustee, with the concurrence of Her Majesty's Advocate, at the expense of the estate, 15 provided the prosecution shall be authorized by a majority in value of the Creditors present at a meeting to be called for the purpose; and such person shall on conviction, besides the awarded punishment, forfeit to the Trustee, for behoof of the Creditors, his whole right, claim and interest in or upon the sequestrated estate; and the 20 same shall be distributed, either under the Sequestration, or if it be closed, under a process of multiplepoinding as is hereinbefore provided.

139.
Deliverances,
&c. may be
partly print-
ed; and cita-
tions to be
without Wit-
nesses.

And be it Enacted, That all deliverances, bonds, schedules and executions under this Act may be either printed or in writing, or 25 partly both; and service or citation may be by a competent Officer without witnesses, in terms of an Act passed in the reign of His Majesty WILLIAM the Fourth, chapter thirty-seven.

140.
No Fee Fund
Dues exigible.

Fees payable.

And be it Enacted, That no payment shall be exacted as a contri- bution towards the Fee Fund at presenting any appeals, petitions or 30 complaints, reclaiming notes, or any papers, under this Act: Provided, that in place of the whole fees heretofore exigible upon proceedings in Sequestrations, there shall be payable upon all proceedings under this Act the fees which are set forth in the Schedule marked (K.) hereunto annexed, and no others; and no Officer receiving any 35 fees under this Act shall hold any vested interest in the same, but the fees hereby exigible shall be subject to regulation, without any claim for compensation on his part.

141.
Gazette
Keeper to
furnish copies
of Gazette.

And be it Enacted, That from and after the passing of this Act the Keeper of the Edinburgh Gazette shall on each day of publica- tion

tion furnish a copy thereof to the Keeper of Edictal Citations, and to the Bill Chamber Clerk, who shall keep the same regularly filed, and make the said Gazettes on all occasions patent to the lieges at office hours, on payment of a fee of Sixpence, and no more.

5 And be it Enacted, That no advertisement inserted in the London Gazette or in the Edinburgh Gazette by virtue of this Act, or the said recited Act of the fifty-fourth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for rendering the Pay-
ment of Creditors more equal and expeditious in Scotland," or an
10 Act of the sixth and seventh year of his late Majesty, intituled, "An Act for Regulating the Process of Cessio Bonorum in the Court of Session, and for extending the Jurisdiction of Sheriffs in Scotland to such cases," shall be charged by the Keepers of the said Gazettes for publication therein, at a higher price, nor shall a higher price
15 be paid for such publication, than the sums specified in the Schedule (L.) hereto annexed.

142.
Charges on
Advertisements under
this Act and
the Act of 54
Geo. 3, c. 137.
and 6 & 7
Wm. 4, c. 56,
regulated.

And be it Enacted, That from and after the commencement of this Act, all conveyances, assignations, instruments, discharges, writings or deeds, relating solely to the estate belonging to any Bankrupt
20 against whom Sequestration has been or may be awarded either under this or any former Act, and which estate, after the execution of such conveyances, assignations, instruments, discharges, writings or deeds, shall be and remain the property of such Bankrupt, for the benefit of his Creditors, or the Trustee appointed or chosen
25 under or by virtue of such sequestration; and all discharges to the said Bankrupt, and all deeds, assignations, instruments or writings for re-investing the said Bankrupt in the estate, and all powers of attorney, commissions, factories, oaths, affidavits, articles of roup or sale, submissions, decrees arbitral, and all other instruments and
30 writings whatsoever, relating solely to the estate of any Bankrupt sequestrated as aforesaid, and all other deeds or writings forming a part of the proceedings ordered under such Sequestration, and all notices or advertisements inserted in the London and Edinburgh Gazettes relative thereto, shall be exempt from all stamp-duties or
35 other Government duty, and no rates or duties imposed by any Statutes upon the sale of estates or effects by auction shall be exigible on the sale of any estates or effects by auction under the authority of this Act: Provided always, That no exemption from auction-duty shall be allowed on the sale by auction under this Act of any
40 estate and effects, unless the auctioneer who shall conduct such sale shall, at the time of passing his account thereof, produce to the Officer of Excise a catalogue signed and certified by the Trustee by whose order such sale shall have been made, in manner and form required by the laws of the Excise.

143.
Conveyances,
Deeds, &c.
relating to
Estates of
Bankrupts,
not liable to
any Stamp-
duty.

Gazette Ad-
vertisements
and Sales by
Auction not
liable to
Duty.

144.
Acts of Sederunt may be made.

And be it Enacted, That it shall be lawful for the Judges of the Court of Session, by an Act or Acts of Sederunt, from time to time to regulate the procedure in relation to this Act, in so far as consistent therewith, and also to establish a table of fees to be allowed to agents, both in the Court of Session and Sheriff Court, for conducting the proceedings, which Act or Acts of Sederunt shall within One Month after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for the Home Department, that the same may be laid before both Houses of Parliament.

145.
Act may be repealed or amended.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULES

SCHEDULES

REFERRED TO IN THIS ACT.

SCHEDULE (A.)

REGISTER OF SEQUESTRATIONS.

[illegible]

SCHEDULE (B.)

ABBREVIATE FOR THE REGISTER OF INHIBITIONS.

PETITION for Sequestration of A. B. [designation.]

Date of first deliverance

day of

(signed)

C. D. (If an Agent, state so.)

SCHEDULE (C.)

NOTICE FOR THE GAZETTES.

THE Estates of A. B. [designatio] were sequestrated on day of (the
first deliverance being dated the day of)

[Insert date of first deliverance]. The Meeting to elect the Interim Factor is to be held at _____ o'clock on the _____ day of _____ within _____ in _____ [specify hour, day of week, month, year and place of meeting]. And the Meeting to elect the Trustee and Commissioners, is to be held at _____ o'clock, on the _____ day of _____ within _____ in _____ [specify hour, day of week, month, year and place of meeting]. A composition may be offered at this latter meeting; and to entitle Creditors to the first dividend, their oaths and grounds of debt must be lodged on or before the [insert date].

(signed) **P. Q., Agent.**

Take Notice, That all future Advertisements, relating to this Sequestration shall be published in the Edinburgh Gazette alone.

SCHEDULE (D.)

FORM OF BOND OF CAUTION FOR AN INTERIM FACTOR OR TRUSTEE.

I, A. B. [designation], having been appointed Trustee [or Interim Factor] on the sequestrated estate of **C. D. [designation];** and **I, E. F. [designation]** as Cautioner, Surety and full Debtor for and with the said **A. B.,** hereby bind and oblige ourselves, conjunctly and severally, our heirs and executors, that I, the said **A. B.,** shall faithfully discharge all the duties which by law attach to the said office of Trustee [or Interim Factor], and fully account for my whole intromissions with the said estate, and make payment of any balance due by me to the Creditors on the said estate, or Trustee elected by them to

succeed me; declaring that this Bond shall not be in any way affected, nor shall I, the said *E. F.*, be liberated, by any omission, negligence or want of diligence on the part of the Creditors or Commissioners on the said estate. [*In case the caution has been limited by the Creditors, the following clause will be here inserted: And declaring further, that this Bond, so far as concerns me, the said E. F., shall not bind me or my foresaids to a greater extent than the sum of [here insert sum in writing], to which my obligation before written is hereby limited.*] In witness whereof, this Bond (*so far as not printed*) written and filled up by [*here shall be inserted in writing a testing clause in legal form.*]

O. T., Witness.

(signed) A. B.

L. F., Witness.

E. F.

SCHEDULE (E.)

ACT AND WARRANT TO THE INTERIM FACTOR.

THE Sheriff of the County of [*insert County*], has confirmed, and hereby confirms A. B. [*designation*], Interim Factor on the Estates of C. D. [*designation*], and declares the said C. D. to be hereby invested with all the powers conferred on Interim Factors by an Act passed in the _____ year of the reign of Her Majesty Queen VICTORIA, intituled [*insert the title of this Act.*] [Signed by Sheriff Clerk.]

SCHEDULE (F.)

ACT AND WARRANT IN FAVOUR OF THE TRUSTEE.

THE Sheriff of the County of [*insert County*], has confirmed, and hereby confirms A. B. [*designation*], Trustee on the sequestrated Estate of C. D. [*designation*], and the whole of the estates and effects, heritable and moveable, and real and personal, wherever situated, of the said C. D. are transferred and belong to A. B., as Trustee for behoof of the Creditors of the said C. D., in terms of an Act of the _____ year of the reign of Her Majesty Queen VICTORIA, intituled [*here insert the title of this Act*]; and the said A. B. has, as Trustee aforesaid, in terms of the said Act, full right and power to sue for and recover all estates, effects, debts and money belonging or due to the said C. D.

(signed) C. D., Sheriff Clerk.

SCHEDULE (G.)

FOR THE RECORD OF ABBREVIATES.

THE whole estates and effects, heritable and moveable, and real and personal, wherever situated, of C. D. [*designation*], are transferred and belong to A. B. [*designation*], as Trustee on his sequestrated estate, in terms of an Act of the _____ year of the reign of Her Majesty Queen VICTORIA, intituled [*here insert the title of this Act*].

[Signed by the Trustee or his Agent.]

SCHEDULE (H.)

FOR THE GAZETTE.

Sequestration of C. D. [*designation.*]

A. B. [*designation*], has been elected Trustee on the estate, and E. F. and G. [*designations*], have been elected Commissioners. The Examination of the Bankrupt will take place in the Sheriff Court-house on [*day of week*] the _____ of [*month*] next, at [*hour of the clock*]. The Creditors will meet in the same place, on _____ at _____ o'clock. [*If any offer of composition has been entertained at the meeting for election of Trustee, intimate this as provided by the Act.*]

[Signed by the Trustee.]

Actual Return
S.

Date of
Delivery

(1.) To the B
In every deliveranc
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In every other del
uch like), and c
In entering the f
in the register c
In entering the u
In entering the r
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warning there
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any part of the
In inspection o
made therefro
In the lodging

(2.) To the
In entering th
publication a

SCHEDULE (I.)

ANNUAL RETURN by each TRUSTEE on the Thirty-first day of December ; and by each SHERIFF CLERK within Fourteen Days thereafter.

Name and Designation of Bankrupt.	Date of First Deliverance.	Name and Designations of Interim Factor and Trustee.	Names and Designation of Commissioners.	Dividend paid or unpaid.	Amount of Debts.	Allowance.	Protection or Liberation.	Discharge on Composition or without Composition.

SCHEDULE (K.)

TABLE OF FEES PAYABLE UNDER THIS ACT.

I.—IN THE COURT OF SESSION.

(1.) To the Bill Chamber Clerk :

	£.	s.	d.
On every deliverance awarding Sequestration, granting discharge to the Bankrupt, approving of composition, or exonerating the Trustee, and entering the same in the office minute book - - - - -	-	5	-
On every other deliverance (not being merely an order for papers, revisals, or such like), and entering same in the office minute book - - - - -	-	2	6
For entering the first deliverance and the deliverance awarding Sequestration in the register of Sequestrations, each (if separate) - - - - -	-	1	-
For entering the name and designation of the Interim Factor - - - - -	-	1	-
For entering the name and designation of the Trustee and Commissioners - - - - -	-	1	-
For every borrowing of the proceedings or any part thereof, and for every returning thereof, each - - - - -	-	1	-
For every certified copy or extract from said register of Sequestrations, or of any part of the proceedings, per sheet - - - - -	-	1	-
For inspection of the list of unclaimed dividends, and certifying any extract made therefrom - - - - -	-	1	-
On the lodging of the Trustee's accounts - - - - -	-	1	-

(2.) To the Keeper of the General Minute Book :

For entering the first deliverance and deliverance awarding Sequestration, adjudication and discharge, and approval of composition, each - - - - -	-	2	6
For entering any other deliverance or intimation - - - - -	-	1	-

(3.) To the Extractors :

For every extract made of the proceedings, or of the deliverance of the Lord Ordinary or Inner House, per sheet - - - - -	-	1	-
---	---	---	---

	£.	s.	d.
II.—TO THE KEEPERS OF THE RECORDS.			
For entering any schedule - - - - -	-	1	-
For entering on the margin of any record the recall of Sequestration, or discharge in favour of the Bankrupt - - - - -	-	1	-
For access to and liberty to make excerpts of proceedings under this Act from any register or record appointed herein to be kept, or in which entries are herein appointed to be made, a fee of One shilling for each year of the record inspected, but not exceeding in all for any One record - - - - -	-	10	-
For extracts or certified copies therefrom, per sheet - - - - -	-	1	-
For collating and certifying excerpts therefrom, per sheet - - - - -	-	-	6

III.—SHERIFF COURT.**(1.) To the Sheriff Clerk:**

On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee - - - - -	-	2	6
For every other deliverance, not being merely an order for papers or revisals - - - - -	-	1	-
For every transmission to or by him of the proceedings - - - - -	-	1	-
For entering the first deliverance, and the deliverance awarding sequestration in the register, each (if separate) - - - - -	-	-	6
For entering the name and designation of the Interim Factor in the register - - - - -	-	-	6
For entering the name and designation of the Trustee and Commissioner in the register - - - - -	-	-	6
For issuing, receiving back and examining bond of caution for an Interim Factor or Trustee, to be paid at the issuing of bond - - - - -	-	2	6
For oath of the Bankrupt, and examinations of him or others, per sheet - - - - -	-	1	-
For every warrant of apprehension or citation of the Bankrupt or others, or commission to take examination - - - - -	-	2	6
For every certified copy or extract of the proceedings before the Sheriff, or of any deliverance pronounced by him, per sheet - - - - -	-	1	-
For every annual report of the depending Sequestrations, for each Sequestration, to be paid by the Trustee - - - - -	-	-	6
For every borrowing of all or any part of the proceedings - - - - -	-	-	6
(2.) To the Sheriff attending any meeting of Creditors or examination, for each such meeting or diet of examination, not being on the same day -	1	1	-

SCHEDULE (L.)**TABLE of PRICES payable for ADVERTISEMENTS in the EDINBURGH GAZETTE.**

For six lines and under - - - - -	-	6	-
For more than six lines and not exceeding ten lines - - - - -	-	7	6
For more than ten lines and not exceeding fifteen lines - - - - -	-	10	6
For more than fifteen lines and not exceeding twenty lines - - - - -	-	14	6
For more than twenty lines and not exceeding twenty-five lines - - - - -	-	17	6
For more than twenty-five lines and not more than thirty lines - - - - -	-	1	6

Bankrupts' Estates (Scotland).

A

B I L L

[AS AMENDED BY THE COMMITTEE]

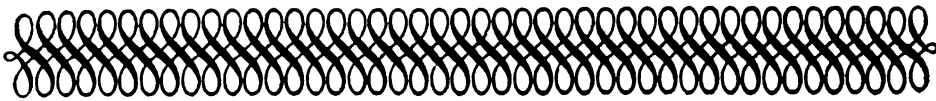
For Regulating the Sequestration of the
Estates of Bankrupts in Scotland.

*(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)*

*Ordered, by The House of Commons, to be Printed,
4 July 1838.*

[Price 7 d.]

4 April 1838.—1 VICT.



(Ireland.)

A

B I L L

To repeal the several Acts now in force relating to Bread to be sold in Ireland, and to provide other Regulations for the Making and Sale of Bread, and for preventing the Adulteration of Meal, Flour and Bread in that part of the United Kingdom called Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~HEREAS~~ by an Act passed in the sixth and seventh years of Preamble.
the reign of his late Majesty King WILLIAM the Fourth, intituled, “An Act to repeal the several Acts now in force relating to Bread to be sold out of the City of London and the Liberties thereof, and beyond
5 the Weekly Bills of Mortality, and Ten Miles of the Royal Exchange, and to provide other Regulations for the Making and Sale of Bread, and for preventing the Adulteration of Meal, Flour and Bread beyond the Limits aforesaid,” certain regulations and provisions were made relative to the making and selling of Bread, and for preventing the
10 adulteration of Meal, Flour and Bread beyond the aforesaid limits, which have been found beneficial to the Public, as well as to the Bakers of Great Britain :

And whereas it is deemed expedient that the several Acts now in force relating to the making and selling of Bread, or to the assize and price thereof, or to the adulteration of Meal, Flour or Bread, in that part
15 of the United Kingdom called Ireland, should be altogether repealed, and that in lieu thereof the regulations, provisions and penalties hereinafter contained, and which are similar to those contained in the said recited Act of the sixth and seventh years of the reign of his late
282. Majesty

Majesty King WILLIAM the Fourth, should be substituted : But inasmuch as the purposes aforesaid cannot be effected without the aid and authority of Parliament ;

1.
Repeals all former Acts relating to the sale of Bread in Ireland.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, all and every Acts or Act now in force relating to the making and selling of Bread, or the assize and price thereof, or to the punishment of persons who shall adulterate Meal, Flour or Bread, or who shall sell Bread deficient in its due weight in Ireland be and the same are hereby repealed, and there shall be no longer any assize of Bread in Ireland, or any regulation respecting the price thereof. 5 10

2.
Bread made of the articles herein mentioned to be sold.

And be it Enacted, That it shall and may be lawful for the several bakers or sellers of Bread in Ireland to make and sell or offer for sale, in his, her or their shop, or to deliver to his, her or their customer or customers, Bread made of the flour or meal of wheat, barley, rye, oats, buck wheat, Indian corn, peas, beans, rice or other grain, or of potatoes, or any of them, such ingredients being mixed with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, butter, seeds or sugar, in such proportions as they shall think fit, and with no other ingredient or matter whatsoever, subject to the regulations herein after contained. 15 20

3.
Bakers to make Bread of any weight or size.

And be it Enacted, That it shall and may be lawful for the several bakers or sellers of Bread in Ireland to make and sell, or offer for sale in his, her or their shop, or to deliver to his, her or their customer or customers, Bread made of such weight or size as such bakers or sellers of Bread, shall think fit, any law or usage to the contrary notwithstanding. 25

4.
Bread to be sold by weight, and in no other manner.

And be it Enacted, That from and after the commencement of this Act, all Bread sold in Ireland shall be sold by the several bakers or sellers of Bread respectively by weight only, and not by measure ; and it shall not be competent for any person or persons to maintain any suit or action at law or equity for the price or value of any Bread sold in Ireland otherwise than by weight ; and in case any baker or seller of Bread in Ireland shall sell or cause to be sold Bread in any other manner than by weight, then and in such case every such baker or seller of Bread shall for every such offence forfeit and pay any sum not exceeding , which the Magistrate or Magistrates, Justice or Justices before whom such offender or offenders shall be convicted shall order and direct. 30 35

Penalty.

And

And be it Enacted, That the several bakers or sellers of Bread respectively in Ireland, in the sale of Bread shall use avoirdupois weight of sixteen ounces to the pound, according to the standard in the Exchequer, and the several gradations of the same for any less quantity than a pound ; and in case any such baker or seller of Bread shall at any time use any other than the avoirdupois, and the several gradations of the same, he, she or they shall for every such offence forfeit and pay any sum not exceeding *Forty Shillings*, nor less than *Ten Shillings*, as the Magistrate or Magistrates, Justice or Justices before whom such conviction shall take place shall from time to time order and adjudge.

5.
Bakers using any other weight than avoirdupois.

Penalty.

And be it Enacted, That every baker or seller of Bread in Ireland shall cause to be fixed in some conspicuous part of his, her or their shop, on or near the counter, a beam and scales, with proper weights or other sufficient balance, in order that every person who may purchase any such Bread may, if he or she shall think proper, require the same to be weighed in his or her presence ; and in case any such baker or seller of Bread shall neglect to fix such beam and scales or other sufficient balance in manner aforesaid, or to provide and keep for use proper beam and scales, and proper weights or balance, or shall have or use any incorrect or false beam or scales or balance, or any false weight not being of the weight it purports to be, according to the standard in the Exchequer, or shall, when thereunto required by any person who may purchase any such Bread, refuse to weigh the same in the presence of such person in such scales or balance, and with such weights as aforesaid, then and in every such case he, she or they shall for every offence forfeit and pay any sum not exceeding *Five Pounds*, which the Magistrate or Magistrates, Justice or Justices, before whom such offender or offenders shall be convicted shall order and adjudge.

6.
Bakers to provide in their shops beams, scales and weights, and to weigh the Bread, if required.

Penalty.

And be it Enacted, That every baker or seller of Bread in Ireland, and every journeyman, servant, or other person employed by such baker or seller of Bread, who shall convey or carry out Bread for sale in and from any cart or other carriage, shall be provided with, and shall constantly carry in such cart or other carriage, wired beam and scales, with proper weights, or other sufficient balance, in order that every person who may purchase any such Bread may, if he or she shall think proper, require the same to be weighed in his or her presence ; and in case any such baker or seller of Bread, or his or her journeyman, servant, or other person shall, at any time, carry out or deliver any Bread without being provided with such beam and scales, with proper weights, or other sufficient balance, or whose weights shall be deficient in their due weight, according to the standard in the Exchequer, or shall, when thereunto required by any person who may purchase

7.
Bakers and sellers of Bread delivered by carts to be provided with scales, weights, &c. for weighing Bread, if so required.

Penalty.

purchase any such Bread, refuse to weigh the same in the presence of such person in such scales or balance, and with such weights as aforesaid, then and in every such case every such baker or seller of Bread shall for every such offence forfeit and pay any sum not exceeding *Five Pounds*, as the Magistrate or Magistrates, Justice or Justices, before whom such offender or offenders shall be convicted shall order and direct. 5

8.
Adulterating
Bread.

Penalty.

Names and
place of
abode of of-
fenders to be
published.

And be it Enacted, That no baker or other person who shall make Bread for sale in Ireland, nor any journeyman or other servant of any such baker or other person, shall, at any time or times, in the making of Bread for sale in Ireland, use any mixture or ingredient whatever in the making of such Bread, other than and except as hereinbefore mentioned, on any account or under any colour or pretence whatsoever in the making of such Bread, upon pain that every such person, whether master or journeyman, servant or other person, who shall offend in the premises, and shall be convicted of any such offence by the oath, or in case of a Quaker, by affirmation, of one or more credible witness or witnesses, or by his, her or their own confession, shall for every such offence forfeit and pay any sum not exceeding *Five Pounds*, nor less than or in default thereof shall, by warrant under the hands and seals of the Magistrate or Magistrates, Justice or Justices before whom such offender shall be convicted, be apprehended and committed to the house of correction, or some prison of the city, county, borough, or place where the offence shall have been committed, or the offender or offenders apprehended, there to remain for any time not exceeding *Three calendar Months*, with or without hard labour, from the time of such commitment, unless the penalty shall be sooner paid, as any such Magistrate or Magistrates, Justice or Justices, shall think fit to order; and it shall be lawful for the Magistrate or Magistrates, Justice or Justices, before whom any such offender or offenders shall be convicted, to cause the offender's name, place of abode, and offence, to be published in some newspaper or newspapers which shall be printed or published in or near the city, county, borough, or place where the offence shall have been committed, and the proprietor and proprietors, printer and printers, and every other person or persons concerned therein, are hereby authorized to print and publish the same, when he, she or they is or are required so to do, by or by the order of such Magistrate or Magistrates, Justice or Justices; and he, she or they is and are hereby indemnified from any prosecution or prosecutions for printing and publishing the same, or causing the same to be printed and published in such newspaper or newspapers, by or from any person or persons whomsoever, any law, statute or usage to the contrary thereof in any wise notwithstanding; and 35 40

and the costs and charges of such printing and publishing shall be paid out of such last mentioned penalty or forfeiture, in case any shall be so forfeited, paid or recovered.

And be it Enacted, That if any person in Ireland shall put into
 5 any corn, meal or flour which shall be ground, dressed, bolted or
 manufactured in Ireland, either at the time of grinding, dressing,
 bolting or manufacturing the same, or any other time, any ingredient
 or mixture whatsoever, not being the real and genuine produce of the
 10 corn or grain which shall be so ground, or if any person in Ireland
 shall knowingly sell, or offer or expose for sale, either separately or
 mixed, any corn, meal or flour which shall not be equal or superior
 in quality or goodness to the sample purporting to be a sample of such
 corn, meal or flour, and produced by the owner or owners thereof,
 15 or other person or persons selling or exposing or offering the same
 respectively for sale to the view of the buyer or buyers or purchasers
 thereof respectively, or of the person or persons to whom the same
 respectively shall have been so exposed or offered for sale, or shall
 use or practise any fraud, covin or deceit, by which such corn,
 meal or flour shall be made or rendered of greater weight than the
 20 same respectively would have been in case such mixture, fraud, covin
 or deceit had not been used or practised, then and in every such case
 every such person so offending shall for every such offence, upon
 conviction before one or more Magistrate or Magistrates, Justice or
 Justices of the city, county, borough or place where such offence
 25 shall have been committed, on the oath, or in case of a Quaker by
 affirmation, of one or more credible witness or witnesses, or by his,
 her or their own confession, forfeit and pay any sum not exceeding
Ten Pounds nor less than *Forty Shillings*, and shall also forfeit all
 such corn, meal or flour so sold or exposed or offered for sale, and
 30 one moiety of such penalty and one moiety of such corn, meal or
 flour so forfeited shall go to the use of the poor of the parish where
 such offence or offences shall have been committed, and the other
 moiety of such penalty and forfeiture shall go to the informer.

9.
 Adulterating
 corn, meal,
 flour, &c.

Selling flour
 of one sort as
 flour of an-
 other sort, or
 not equal to
 sample.

Penalty.

And be it Enacted, That every person who shall make for sale, or
 35 sell or expose for sale in Ireland, any Bread made wholly or partially
 of peas or beans or potatoes, or of any sort of corn or grain other
 than wheat, shall cause all such Bread to be marked with a large
 Roman M; and if any person shall at any time, in Ireland, make or
 sell, or expose for sale any such Bread without such mark as herein-
 40 before directed, then and in every such case every person so offending
 shall, upon conviction in manner hereinafter mentioned, forfeit and
 pay for every pound weight of such Bread, and so in proportion for
 any less quantity which shall be so made for sale, or sold or exposed
 for sale, without being so marked as aforesaid, any sum not exceeding
 282.

10.
 Bread made
 of a mixed
 meal or flour
 to be marked
 with a Roman
 M.

Penalty.

Proviso.

Ten Shillings, as the Magistrate or Magistrates, Justice or Justices, before whom such conviction shall take place shall from time to time order and adjudge: Provided always, That nothing in this Act contained shall extend or be construed to extend to require any Bread made of the meal or flour of wheat only, and in the making of which potato yeast shall be used, to be marked as hereinbefore is mentioned. 5

11.
Magistrates, or peace officers by their warrant, may search a baker's premises, and if any adulterated flour, meal, Bread, &c. be found there, the same may be seized and disposed of as herein mentioned.

And be it Enacted, That it shall be lawful for any Magistrate or Magistrates, Justice or Justices of the Peace, within their respective jurisdictions, on the sworn information of one or more credible person or persons, and also for any peace officer of the parish or parish constables authorized by warrant under the hand and seal or hands and seals of any such Magistrate or Magistrates, Justice or Justices (and which warrant any such Magistrate or Magistrates, Justice or Justices, is and are hereby empowered to grant), at seasonable times in the day-time, to enter into any house, mill, shop, stall, bakehouse, bolting-house, pastry warehouse, out-house or ground of or belonging to any miller, mealman, flour-factor or baker, or other person who shall grind grain, or dress or bolt or sell meal or flour, or make Bread for reward or sale in Ireland, and to search or examine whether any mixture or ingredient not the genuine produce of the grain which such meal or flour shall import or ought to be, shall have been mixed up with or put into any meal or flour in the possession of such miller, mealman, flour-factor or baker, either in the grinding of any grain at the mill or in the dressing, bolting or manufacturing thereof, whereby the purity of any meal or flour is or shall be in anywise adulterated, or whether any mixture or ingredient other than is allowed by this Act shall have been mixed up with or put into any flour, dough or Bread in the possession of any such baker or other person, whereby any such flour, dough or bread is or shall be in anywise adulterated, and also to search for any mixture or ingredient which may be intended to be used in or for any such adulteration or mixture; and if on any such search it shall appear that any such meal, flour, dough or Bread so found shall have been so adulterated by the person in whose possession it shall then be, or any mixture or ingredient shall be found which shall seem to have been deposited there in order to be used in the adulteration of meal, flour or Bread, then and in every such case it shall be lawful for every such Magistrate or Magistrates, Justice or Justices of the Peace, or parish constable or parish constables, authorized as aforesaid, respectively within the limits of their respective jurisdictions, to seize and take away any meal, flour, dough or Bread which shall be found in any such search, and deemed to have been adulterated; and all ingredients and mixtures which shall be found and deemed to have been used or intended to be used in or for any such adulteration as aforesaid, and such part thereof as shall be seized by any parish constable or parish constables, authorized as aforesaid, 10 15 20 25 30 35 40

aforesaid, shall, with all convenient speed after seizure, be carried to the nearest resident Magistrate or Magistrates, Justice or Justices of the Peace, within the limits of whose jurisdiction the same shall have been so seized; and if any Magistrate or Magistrates, Justice or
 5 Justices who shall make any such seizure in pursuance of this Act, or to whom any thing so seized under the authority of this Act shall be brought, shall adjudge that any such meal, flour, dough or Bread so seized shall have been adulterated by any mixture or ingredient put therein, other than is allowed by this Act, or shall adjudge that
 10 any ingredient or mixture so found as aforesaid shall have been deposited or kept where so found for the purpose of adulterating meal, flour, dough or Bread, then and in any such case every such Magistrate or Magistrates, Justice or Justices of the Peace, is and are hereby required, within the limits of their respective jurisdictions, to
 15 dispose of the same as he or they in his or their discretion shall from time to time think proper.

And be it Enacted, That every miller, mealman, flour-factor or baker in Ireland in whose house, mill, shop, stall, bakehouse, bolting-house, pastry-warehouse, out-house, ground or possession any ingredient or
 20 mixture shall be found which shall, after due examination, be adjudged by any Magistrate or Magistrates, Justice or Justices of the Peace, to have been deposited there for the purpose of being used in adulterating meal, flour, dough or Bread, shall, upon being convicted of any such offence, either by his, her or their confession, or
 25 by the oath, or in case of a Quaker, by affirmation of one or more credible witness or witnesses, forfeit and pay on every such conviction any sum not exceeding *Ten Pounds*, nor less than *Forty Shillings* for the first offence, *Five Pounds* for the second offence, and *Ten Pounds* for every subsequent offence, or, in default of payment thereof, shall, by
 30 warrant under the hand and seal or hands and seals of the Magistrate or Magistrates, Justice or Justices, before whom such offender shall be convicted, be apprehended and committed to the house of correction, or some prison of the city, county or place where the offence shall have been committed, or the offender or offenders shall be apprehended, there to remain for any time not exceeding *Three calendar*
 35 *Months*, with or without hard labour, from the time of such commitment (unless the penalty be sooner paid), as any such Magistrate or Magistrates, Justice or Justices, shall think fit and order; and it shall be lawful for the Magistrate or Magistrates, Justice or Justices before
 40 whom any such offender shall be convicted, to cause the offender's name, place of abode and offence to be published in some newspaper or newspapers which shall be printed or published in or near the city, county, borough or place where the offence shall have been committed, and the proprietor or proprietors, printer or printers, and every other person and persons concerned therein are hereby authorized to print

12.
 Ingredients for adulteration of Meal or Bread found on any premises.

Penalty.
 First offence.
 Second offence.
 Subsequent offences.

Names of offenders to be published.

and publish the same when he, she or they is or are required so to do, by or by the order of such Magistrate or Magistrates, Justice or Justices; and he, she or they is and are hereby indemnified from any prosecution or prosecutions for printing and publishing the same, or causing the same to be printed and published in such newspaper or newspapers 5 by or from any person or persons whomsoever, any law, statute or usage to the contrary notwithstanding; and the costs and charges of such printing and publishing shall be paid out of such last-mentioned penalty or forfeiture, if any such shall be so forfeited and paid or recovered. 10

13.
Obstructing
search.

And be it Enacted, That if any person or persons shall wilfully obstruct or hinder any such search as hereinbefore is authorized to be made, or the seizure of any meal, flour, dough or bread, or of any ingredient or mixture which shall be found in any such search, and deemed to have been lodged with an intent to adulterate the purity or 15 wholesomeness of any meal, flour, dough or bread, or shall wilfully oppose or resist any such search being made, or the carrying away any such ingredient or mixture as aforesaid, or any meal, flour, dough or Bread which shall be seized as being adulterated, or as not being made pursuant to this Act, he, she or they so doing or offending 20 in any of the cases last aforesaid, shall for every such offence, on being convicted thereof, forfeit and pay such sum not exceeding *Ten Pounds*, as the Magistrate or Magistrates, Justice or Justices, before whom such offender or offenders shall be convicted shall think fit and

Penalty.

Proviso for
offences occa-
sioned by
wilful default
of journey-
men and
servants.

order: Provided also, That if any person making or who shall make 25 Bread for sale in Ireland, shall at any time make complaint to any Magistrate or Magistrates, Justice or Justices of the Peace, within his or their jurisdiction, and make it appear to him or them by the oath, or in case of a Quaker by affirmation, of any credible witness, that any offence which such person shall have been charged with, and for 30 which he or she shall have incurred and paid any penalty under this Act, shall have been occasioned by or through the wilful act, neglect or default of any journeyman or other servant employed by or under such persons so making complaint; and provided also, that if any person making, or who shall make Bread for sale in Ireland, 35 shall at any time make complaint to any Magistrate or Magistrates, Justice or Justices, within his or their jurisdiction, and make it appear to them that any journeyman, apprentice or other servant did, by his or their wilful act, neglect or default, injure, damage, destroy or adulterate the material or property of his or their employer, then and in every 40 such case any such Magistrate or Magistrates, Justice or Justices, may, and is or are hereby required to issue out his or their warrant, under his or their hand and seal or respective hands and seals, for bringing any such journeyman, apprentice or other servant before any such Magistrate or Magistrates, Justice or Justices, or any Magistrate or Justice of the Peace

Proceedings.

Peace, acting in and for the city, county, division or place where the offender can be found; and on any such journeyman, apprentice or other servant being thereupon apprehended and brought before any such Magistrate or Magistrates, Justice or Justices, he or they, within his or their respective jurisdictions, is and are hereby authorized and required to examine into the matter of such complaint; and, on proof thereof, upon oath or affirmation, to the satisfaction of any such Magistrate or Magistrates, Justice or Justices of the Peace, who shall hear such complaint, then any such Magistrate or Magistrates, Justice or Justices, is and are hereby directed and authorized, by an order under his or their respective hand or hands, to adjudge and order what reasonable sum of money shall be paid by any such journeyman, apprentice, or other servant to his master or mistress, as or by way of recompense to him or her for the money he or she shall have paid, or for the injury they might have otherwise sustained by reason of the wilful act, neglect, or default of any such journeyman, apprentice, or other servant; and if any such journeyman, apprentice, or other servant shall neglect or refuse, on his conviction, to make immediate payment of the sum of money which any such Magistrate or Magistrates, Justice or Justices shall order him to pay by reason of such his said wilful neglect or default, then any such Magistrate or Magistrates, Justice or Justices, within his or their respective jurisdictions, is and are hereby authorized and required, by warrant under his or their hand and seal or hands and seals, to cause such journeyman, apprentice, or other servant to be apprehended and committed to the house of correction, or some other prison of the city, county, division or place, in which such journeyman, apprentice, or other servant shall be apprehended or convicted, there to be kept to hard labour for any time not exceeding *Three calendar Months*, nor less than *One calendar Month* from the time of such commitment, as to such Magistrate or Magistrates, Justice or Justices, shall seem reasonable, unless payment shall have been made of the money ordered after such commitment, and before the expiration of the said time; and if any maker or seller of Bread in Ireland shall employ any such journeyman, apprentice, or other servant convicted of having maliciously, or by wilful act, neglect or default, injured, damaged, destroyed or adulterated the materials or property of his employer, for the space of *Six calendar Months* next after such conviction, then and in every such case every such person so offending shall forfeit and pay any sum not exceeding *Ten Pounds*.

If penalty on journey-men not paid, imprisonment.

Provided always, and be it Enacted, That no master or mistress, journeyman or other person, respectively exercising the trade or calling of a baker in Ireland shall, on the Lord's day, or on any part thereof, make or bake any Bread, rolls, or cake, of any sort or kind, or shall on

14.
Bakers baking bread or rolls on the Lord's Day, or selling bread or baking pies,

&c., except
between
certain hours.

Penalty.

First offence.
Second
offence.
Third and
subsequent
offences.

Bakings may
be delivered
until half-
past one on
Sundays.

any other part of the said day than between the hours of *Nine* of the clock in the forenoon and *One* of the clock in the afternoon, on any pretence whatsoever sell or expose for sale, or permit or suffer to be sold, delivered or exposed for sale, any Bread, rolls, or cakes of any sort or kind, or bake or deliver, or permit or suffer to be baked or delivered, any meat, pudding, pie, tart, or victuals, except as hereinafter is excepted, or in any other manner exercise the trade or calling of a baker, or be engaged or employed in the business or occupation thereof, save and except so far as may be necessary in setting and superintending the sponge to prepare the Bread or dough for the following day's baking; and every person offending against the last-mentioned regulations, or any one or more of them, and being thereof convicted before any Justice of the Peace of the city, county or place where the offence shall be committed, within *Ten Days* from the commission thereof, either upon the view of such Justice, or on confession by the party, or proof by one or more credible witness or witnesses upon oath or affirmation, shall for every such offence pay and undergo the forfeiture, penalty and punishment hereinafter mentioned; (that is to say), for the first offence the penalty of *Ten Shillings*; for the second offence, the penalty of *Twenty Shillings*; and for the third and every subsequent offence respectively the penalty of *Forty Shillings*; and shall moreover upon every such conviction bear and pay the costs and expenses of the prosecution, such costs and expenses to be assessed, settled and ascertained by the Justice convicting, and the amount thereof, together with such part of the penalty as such Justice shall think proper to be allowed to the prosecutor or prosecutors for loss of time in instituting and following up the prosecution at a rate not exceeding *Three Shillings* per diem, and to be paid to the prosecutor or prosecutors for his, her or their own use and benefit, and the residue of such penalty to be paid to such Justice, and within *Seven Days* after his receipt thereof to be transferred by him to the use of the poor of the parish where the offence shall be committed; and in case the whole amount of the penalty and of the costs and expenses aforesaid be not forthwith paid after conviction of the offender or offenders, such Justice shall and may, by warrant under his hand and seal, direct the same to be raised and levied by distress and sale of the goods and chattels of the offender or offenders, and in default or insufficiency of such distress, commit the offender or offenders to the house of correction, with or without hard labour, on a first offence, for the space of *Seven Days*; on a second offence for a space of *Fourteen Days*; and on a third or any subsequent offence, for the space of *One Month*, unless the whole of the penalty, costs and expenses be sooner paid and discharged: Provided nevertheless, That it shall be lawful for every baker in Ireland to deliver to his or her customer or customers on the Lord's day any bakings (that is to say), baked dishes, meat or puddings

dings (but not Bread), until half an hour past *One* of the clock in the afternoon of that day, without incurring or being liable to any of the penalties in this Act contained.

AND for remedy of the great distresses and inconveniences
 5 which have arisen from illegal combinations and other licentious
 practices of journeymen, apprentices and other servants of the baking
 trade ; BE it enacted, That if any journeyman, apprentice or other
 servant employed by or under any maker or seller of Bread in Ireland,
 shall refuse to work with, or shall quit the service of his employer,
 10 on account of his employer having one or more apprentice or
 apprentices, or shall absent himself from or quit the service of his said
 employer, without giving his said employer *One Week's* previous
 notice of his intention so to do, or shall be guilty of entering into any
 illegal combination against any maker or seller of Bread, or any other
 15 person concerned in the said trade ; or if any journeyman, apprentice
 or other servant shall, by wilful act, neglect or default, damage,
 destroy or adulterate the materials of his employer, then and in every
 such case every such journeyman, apprentice or other servant so
 offending shall, for every such offence, forfeit and pay any sum not
 20 exceeding *Five Pounds*. nor less than *Twenty Shillings*, or in default
 thereof it shall and may be lawful to and for the Magistrate or
 Magistrates, Justice or Justices, before whom any such journeyman,
 apprentice or other servant shall be convicted of any such offence, at
 his or their discretion to commit, by warrant under his or their hand
 25 and seal or hands and seals, such journeyman, apprentice or other
 servant so offending, to the common gaol or house of correction for
 the city, county, town or place in which such journeyman, apprentice or
 other servant shall be convicted, there to remain without bail or main-
 prize for any space of time not exceeding *Three calendar Months* ; and
 30 if any maker or seller of Bread or any other person concerned in the
 said trade in Ireland, shall employ any journeyman, apprentice or
 other servant convicted as aforesaid, within the space of *Six calendar*
Months next after such conviction, then and in every such case every
 person so offending shall forfeit and pay any sum not exceeding *Ten*
 35 *Pounds*.

15.
 Penalties on
 journeymen,
 apprentices
 and other
 servants of
 the baking
 trade.

Penalty.

Provided always, and be it Enacted, That no person who shall
 follow or be concerned in the business of miller, mealman, flour-factor
 or baker, shall be capable of acting, or shall be allowed to act as a
 Magistrate or Justice of the Peace under this Act, or in putting in
 40 execution any of the powers in or by this Act granted ; and if any
 miller, mealman, flour-factor or baker shall presume so to do, he or
 they so offending in the premises shall for every such offence forfeit and
 pay the sum of *One hundred Pounds* to any person or persons who shall
 inform or sue for the same, to be recovered, together with full costs of
 282.

16.
 Miller, meal-
 man, flour-
 factor or
 baker not to
 act as a Justice
 of the Peace.

Penalty.

suit, in any of Her Majesty's Courts of Record at Dublin, by action of debt, bill, plaint or information, wherein no essoign, wager of law, or more than one imparlance shall be allowed.

17.
Opposing
Execution of
Act.

Penalty.

And be it Enacted, That in case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act, every such person offending therein shall for every such offence forfeit and pay any sum not exceeding *Ten Pounds*, at the discretion of the Magistrate or Magistrates, Justice or Justices of the Peace, before whom he, she or they shall be convicted of such offence.

18.
Recovery and
application of
penalties and
forfeitures.

Distress.

Imprison-
ment.

And be it Enacted, That all penalties, forfeitures and fines by this Act inflicted or authorized to be imposed, the manner of levying and recovering, and applying whereof is not herein otherwise directed, shall upon proof and conviction of the offences respectively before any Magistrate or Magistrates, Justice or Justices of the Peace for the city, county or place where the offence shall have been committed (as the case may require), either by the confession of the party offending, or by the oath, or in case of a Quaker by affirmation, of any credible witness or witnesses, which oath or affirmation every such Magistrate or Justice is in every such case hereby fully authorized to administer, be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such Magistrate or Justice, which warrant such Magistrate or Justice is hereby empowered and required to grant, and the overplus (if any) after such penalties, forfeitures and fines, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner or owners of such goods and chattels; and in case such fines, penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such Magistrate or Justice to order the offender or offenders so convicted, to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such Magistrate or Justice, for his or their appearance before such Magistrate or Justice, on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than *Seven Days* from the time of taking any such security, and which security the said Magistrate or Justice is hereby empowered to take by way of recognizance or otherwise; but if upon return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such Magistrate or Justice of the Peace as aforesaid, and he is hereby authorized and required by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of the city, county

county or place where the offender shall be or reside, there to remain without bail or mainprize, for any time not exceeding *One calendar Month*, with or without hard labour, save and except as herein otherwise directed, unless such penalties, forfeitures and fines, and all reasonable charges attending the same, shall be sooner paid and satisfied; and the monies arising by such penalties, forfeitures and fines respectively, when paid or levied, if not otherwise directed to be applied by this Act, shall from time to time be paid, one moiety thereof to the informer or person suing for and recovering the same, and the other moiety to the use of the poor of the parish where the offence shall have been committed.

And be it Enacted, That every summons to be served on any offender against any of the provisions of this Act shall be in the form or to the effect following:

19.
Summons
served.

15 "To A. B., of

County of } "WHEREAS complaint and information hath been made
to wit. } before me, C. D., one of Her Majesty's Justices of the Peace [or, Magistrate] for the said county, &c., by E. F., of that, &c. [here state the nature and circumstances of the case, as far as it shall be necessary to show the offence, and to bring it within the authority of the Justice or Magistrate, and in doing that, follow the words of the Act as near as may be]: These are therefore to require you personally to appear before me (or such Magistrate or Justice as shall be then and there present), at in the said county, on the day of next, at the hour of in the noon, to answer the said complaint and information made by the said E. F., who is likewise directed to be then and there present, either in person or by his agent or attorney, to make good the same. Herein fail not. Given under my hand, this day of ."

Form of
Summons.

And be it Enacted, That every information to be laid before any Justice or Magistrate for any offence against this Act, shall be in the form or to the effect following:

20.
Information
for Offences.

35 County of } "BE it Remembered, That on the day
to wit. } of A. B., of in the said county, informeth me, one of Her Majesty's Justices of the Peace [or Magistrate, as the case may be] for the said county that of in the said county [here describe the offence, with the time and place, and follow the words of the Act as near as may be], contrary to the statute made in the year of

Form.

of the reign of Queen VICTORIA, intituled, 'An Act [set forth the title of this Act], which hath imposed a forfeiture of _____ for the said offence. Taken the _____ day of _____ before me, C. D."

21.
Information laid before acting Magistrate of district. Provided always, and be it Enacted, That all offences committed 5 against this Act, except where it is otherwise directed, shall be laid before the Magistrate or Magistrates, Justice or Justices, usually acting in and for the district in which the offence shall have been committed in a summary way, upon complaint, and the said Magistrate or Magistrates, Justice or Justices, is and are hereby empowered 10 to issue his or their summons for the purpose of hearing and determining the same.

22.
Power to summon witnesses in prosecuting offences. And be it Enacted, That if it shall be made appear, by oath or affirmation of any credible person or persons, to the satisfaction of any Magistrate or Magistrates, Justice or Justices, that any person 15 or persons within the jurisdiction of any such Magistrate or Magistrates, Justice or Justices, is or are likely to give or offer material evidence on behalf of the prosecutor of any offender or offenders, against the true intent and meaning of this Act, or on behalf of the person or persons accused, and will not voluntarily appear before such 20 Magistrate or Magistrates, Justice or Justices, to be examined and give his, her or their evidence concerning the premises, every such Magistrate or Magistrates, Justice or Justices, is and are hereby authorized and required to issue his or their summons to convene every such person or persons before any such Magistrate or Magistrates, 25 Justice or Justices, at such reasonable time as in such summons shall be fixed ; and if any person so summoned, after having been paid or tendered a reasonable sum for his, her or their costs and expenses, shall neglect or refuse to appear at the time by such summons appointed, and no just excuse shall be offered for such neglect or refusal, 30 then after proof, upon oath or affirmation, of such summons having been duly served upon the party or parties so summoned, every such Magistrate or Magistrates, Justice or Justices, is and are hereby authorized and required to issue his or their warrant, under his hand and seal or their hands and seals, to bring every such person or persons 35 before any such Magistrate or Magistrates, Justice or Justices; and on the appearance of any such person before any such Magistrate or Magistrates, Justice or Justices, every such Magistrate or Magistrates, Justice or Justices, is and are hereby authorized and empowered to examine, upon oath or affirmation, every such person ; 40 and if any such person, on his or her appearance, or on being brought before any such Magistrate or Magistrates, Justice or Justices, shall refuse to be examined upon oath or affirmation concerning the premises without offering any just excuse for such refusal, any such Magistrate

Tender of Expenses.

Examination upon Oath.

Committal for Contempt.

Magistrate or Magistrates, Justice or Justices, within the limits of his or their jurisdiction, may, by warrant under his hand and seal or their hands and seals, commit any person or persons so refusing to be examined to the public prison of the city, county, division, liberty or place in which the person or persons so refusing to be examined shall be, there to remain for any time not exceeding *Fourteen Days*, with or without hard labour, as any such Magistrate or Magistrates, Justice or Justices, shall direct.

And be it Enacted, That if any person who shall take any oath or make any affirmation by this Act directed to be taken or made, shall wilfully forswear himself or herself, or make any false affirmation, every such person shall be subject and liable to be prosecuted for perjury by indictment or information, according to the due course of law, and if convicted thereof, shall be subject and liable to the pains and penalties which persons convicted of wilful and corrupt *perjury* are subject and liable to.

23.
False evidence

prosecuted for perjury.

And be it Enacted, That the Magistrate or Magistrates, Justice or Justices, before whom any person shall be convicted in manner prescribed by this Act, shall cause every such conviction to be drawn up in the form or to the effect following ; (that is to say)

24.
Conviction.

to wit. } “ BE it Remembered, That on this day Form.
of in the year of the reign of
A. B. is convicted before Her Majesty’s
Justice of the Peace for the county of [or for the
division of the said county of or for the city, liberty or
town of as the case shall happen to be] for
and do adjudge him, or her or them [as the case may
be], to pay and forfeit for the same the sum of . Given
under the day and year aforesaid.”

And be it Enacted, That no order, judgment or conviction made touching or concerning any of the matters in this Act contained, or of any proceedings to be had touching the conviction of any offender or offenders against this Act shall be quashed for want of form, or be removed or be removable by certiorari or any other writ or process whatsoever into any of Her Majesty’s Courts of Record at Dublin ; and where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the summons, conviction, warrant of distress, or any other proceeding relating thereto, nor should the party or parties distraining be deemed a trespasser or trespassers (ab initio) on account of any irregularity

25.
Proceedings not quashed through informality.

Proviso for
tender of
amends.

irregularity which shall be afterwards committed by the party or parties distraining; but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damages (if any) in an action on the case; but no plaintiff or plaintiffs shall recover in any action for such irregularity as aforesaid, if tender of sufficient amends hath been made by or on the behalf of the party distraining before such action brought. 5

26.
Appeal to
Quarter
Sessions.

Recognizance.

Final.

Costs.

Provided always, and be it Enacted, That if any person or persons convicted of any offence punishable by this Act, shall think him, her or themselves aggrieved by the judgment of the Magistrate or Magistrates, Justice or Justices, before whom he, she or they shall have been convicted, it shall and may be lawful for such person or persons from time to time to appeal to the Justices at the next General or General Quarter Sessions of the Peace which shall be held for the city, county, division, liberty, town or place where such judgment shall have been given, and that the execution of such judgment shall in such case be suspended, the person or persons so convicted entering into a recognizance within *Twenty-four Hours* of the time of such conviction, with *Two* sufficient sureties, in double the sum which such person or persons shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the Justices at their said next General or General Quarter Sessions, which recognizance the Magistrate or Magistrates, Justice or Justices, before whom such conviction shall be had, is and are hereby empowered and required to take; and the Justices in the said General or General Quarter Sessions are hereby authorized and required to hear and finally determine the matter of every such appeal in a summary way, and to make such determination therein, and either to confirm or quash or annul the said conviction, and to award such costs to either of the parties or otherwise as they the said Justices shall adjudge proper; and all such determination shall be final, binding and conclusive to all parties, to all intents and purposes whatsoever. 10 15 20 25 30

27.
Notice of
action to be
given, and
plaintiff not
to recover
after tender of
amends.

And be it Enacted, That no plaintiff or plaintiffs shall recover in any action to be commenced against any person or persons for any thing done in pursuance of this Act, unless notice in writing shall have been given to the defendant or defendants *Twenty-one Days* before such action shall be commenced of such intended action, signed by the attorney for the plaintiff or plaintiffs, specifying the cause of such action; nor shall the plaintiff or plaintiffs recover in any such action, if tender of sufficient amends shall have been made to him, her or them, or to his, her or their attorney, by or on behalf of the defendant or defendants before such action brought; and, in case no such tender shall have been made, it shall and may be lawful for the defendant or defendants in any such action, by leave of the Court wherein 35 40

wherein such action shall have been brought, at any time before issue joined, to pay into Court such sum of money as he, she or they shall think fit, whereupon such proceedings, order and judgment shall be made and given in and by such Court as in other actions, where the
5 defendant is allowed to pay money into Court.

And be it Enacted, That no action or suit shall be brought against
any person or persons for any thing done in pursuance of this Act,
or in relation to the matters herein contained, after *Six calendar*
Months from the time of the fact having been committed; and every
10 such action or suit shall be brought and tried in the city, county, or
place where the cause of action shall have arisen, and not elsewhere;
and the defendant and defendants in every such action or suit shall
or may, at his or their election, plead specially or the general issue,
and give this Act and the special matter in evidence at any trial,
15 and that the same was done in pursuance and under the authority of
this Act, and if the same shall appear to have been done, or if such
action or suit shall have been brought before the expiration of *Twenty-*
one Days next after such notice shall have been given as aforesaid, or
after sufficient satisfaction made or tendered as aforesaid, or after the
20 time limited for bringing the same, or shall be brought in any other
city, county or place than as aforesaid, then and in every of the said
cases the Jury shall find a verdict for the defendant or defendants;
and upon such verdict, or if the plaintiff or plaintiffs shall be non-
suited, or discontinue his, her or their action or suit, after the
25 defendant or defendants shall have appeared, or upon any demurrer,
judgment shall be given against the plaintiff or plaintiffs, then and in
every such case the defendant or defendants shall recover double
costs, and have such remedy for recovering the same as any
defendant or defendants hath or have in other cases by law.

28.
Limitation of
actions.

General issue.

Double costs.

Provided also, and be it Enacted, That no person shall be convicted
of any offence under this Act, unless the complaint is made within
Fourteen Days after the offence shall have been committed, or within
such reasonable time as to the Justice or Justices shall seem fit, except
in cases of perjury or proceedings in the Superior Courts of Dublin, and
35 that no person who shall be prosecuted to conviction for any offence
done or committed against this Act shall be liable to be prosecuted for
the same offence under any other law.

29.
Limitation of
informations.

And be it Enacted, That all penalties and forfeitures by this Act
inflicted, and the application of which is not hereinbefore directed,
40 shall, when recovered or paid, go and be disposed of in manner
following, (that is to say) one moiety thereof where any offender or
offenders shall be convicted either by his, her or their own confession,
or by the oath or affirmation of one or more credible witness or
282. c witnesses,

30.
Application
of penalties.

witnesses, shall go and be paid to the person or persons who shall inform against and prosecute to conviction any such offender or offenders, and the other moiety thereof; and in case there be no such person informing, then *the whole* thereof shall go and be paid to the use of the poor of the parish where the offence shall have been committed. 5

31.
Commence-
ment of Act.

And be it Enacted, That this Act, and every matter and thing therein contained, shall have effect and be in force from and after the expiration of *One calendar Month* next after the *passing thereof*, and not sooner. 10

32.
Public Act.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such, by all Judges, Justices and others, without being specially pleaded.

33.
Act may be
amended,
altered or re-
pealed during
the present
Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

Sale of Bread (Ireland).

A

B I L L

To repeal the several Acts now in force relating to Bread to be sold in Ireland, and to provide other Regulations for the Making and Sale of Bread, and for preventing the Adulteration of Meal, Flour and Bread in that Part of the United Kingdom called Ireland.

(Prepared and brought in by
Mr. Beamin and Mr. Hutton.)

*Ordered, by The House of Commons, to be Printed,
4 April 1838.*

6 July 1838.—2 VICT.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend so much of an Act of the Twenty-fifth Year of King GEORGE the Third, for the further and better Regulation of Buildings and Party Walls, and for the more effectually preventing mischiefs by Fire, within the Cities of London and Westminter, as relates to Manufactories of Pitch, Tar and Turpentine.

WHEREAS an Act was passed in the twenty-fifth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to amend so much of an Act passed in the Fourteenth Year of the reign of His present Majesty, for the further and better Regulation of Buildings and Party-walls, and for the more effectually preventing Mischiefs by Fire, within the Cities of London and Westminster, and the Liberties thereof, and other the Places therein mentioned, as relates to Manufactories of Turpentine, for extending the Provisions of the said Act, so amended, to Manufactories of Pitch, Tar and Turpentine, throughout that part of Great Britain called England, and for indemnifying the Proprietor of a Turpentine Manufactory in Potter's Fields, in the Borough of Southwark, against the Penalties he may be liable to under the said Act, and for excepting for a limited time his said Manufactory from the Provisions herein contained:"

Preamble:
Recital of
25 Geo. 3.
c. 77.

And whereas it was in and by the said Act among other things enacted, that it should not be lawful for any person or persons within that part of Great Britain called England to distil or boil any Turpentine or Tar, or to draw any Oil of Turpentine and Rosin by distilling Turpentine, or to draw any Oil of Tar or Pitch by distilling

or boiling Tar, or to boil any Oil and Turpentine together, or to boil any Oil and Tar together, above the quantity of Ten Gallons at one time of all or any of the said commodities in any workhouse or place contiguous to any other building, or in any place nearer to any other building than the distance of Seventy-five Feet at the least (except in houses or buildings then in use for carrying on such manufactories, and then legally entitled to be used for those purposes), upon pain that every person offending therein should for every such offence forfeit and pay the sum of One hundred Pounds: 5

And whereas the said Enactment has been found to be inexpedient; 10

1.
Repealing
Provision in
recited Act in
certain cases.

~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the penalties 15 named in the said recited Act shall extend to the owners or occupiers of any Turpentine Distillery which shall be within the distance of Seventy-five Feet from any other building or buildings; but in case the other building or buildings next adjoining to a Turpentine Distillery be occupied jointly by the same tenant, and that the whole of 20 such buildings (including the Turpentine Distillery and the said other building or buildings) so jointly occupied by the said tenant be Seventy-five Feet distant from any other building, then the said penalties shall not extend to the occupier or occupiers thereof.

2.
No Action for
Penalties
under recited
Act to be
brought until
1st September
1838.

And be it Enacted, That no action or prosecution shall be brought, 25 commenced or carried on against any person or persons for the recovery of any penalty incurred by virtue of the said recited Act, until the First day of September One thousand eight hundred and Thirty-eight.

3.
Act to be
deemed a
Public Act.

And be it Enacted, That this Act shall be deemed and taken to 30 be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

Turpentine Penalties.

A

B I L L

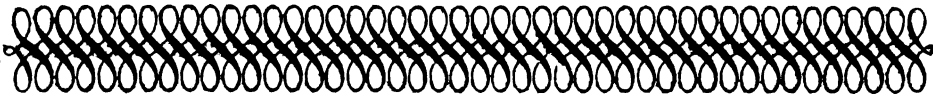
[AS AMENDED BY THE COMMITTEE]

To amend so much of an Act of the Twenty-fifth Year of King George the Third, for the further and better Regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire, within the Cities of London and Westminster, as relates to Manufactories of Pitch, Tar and Turpentine.

(Prepared and brought in by
Mr. Hunt and Mr. Ord.)

*Ordered, by The House of Commons, to be Printed,
6 July 1838.*

30 July 1838.—2 VICT.



A

B I L L,

[AS AMENDED BY THE LORDS]

INTITULED,

AN ACT to amend so much of an Act of the Twenty-fifth Year of King GEORGE the Third, for the further and better Regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire, within the Cities of London and Westminster, as relates to Manufactories of Pitch, Tar and Turpentine.

[*Note.*—The Figures in the Margin denote the Number of Presses in the Ingrossment.]

[*N.B.*—The Words printed beneath a *Black Line* were struck out, and the Words and Clause printed in *Italics* were added, by the Lords.]

1 **W**~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ an Act was passed in the twenty-fifth year of Preamble :
the reign of his late Majesty King GEORGE the Third, 25 Geo. 3.
intituled, "An Act to amend so much of an Act passed in the c. 77.
Fourteenth Year of the Reign of his present Majesty, for the further
and better Regulation of Buildings and Party Walls, and for the
more effectually preventing Mischiefs by Fire within the Cities of
London and Westminster, and the Liberties thereof, and other the
Places therein mentioned, as relates to Manufactories of Turpentine;
for extending the Provisions of the said Act, so amended, to Manu-
factories of Pitch, Tar and Turpentine, throughout that Part of
Great Britain called England, and for indemnifying the Proprietor of
a Turpentine Manufactory in Potter's Fields in the Borough of South-
wark against the Penalties he may be liable to under the said Act,
and for excepting for a limited Time his said Manufactory from the
Provisions herein contained :"

2 And whereas it was in and by the said Act among other things
enacted, that it should not be lawful for any person or persons within
that part of Great Britain called England to distil or boil any Tur-
pentine or Tar, or to draw any Oil of Turpentine and Rosin by distil-
ling
649.

ling Turpentine, or to draw any Oil of Tar or Pitch by distilling or boiling Tar, or to boil any Oil and Turpentine together, or to boil any Oil and Tar together, above the quantity of Ten Gallons at one time of all or any of the said commodities, in any workhouse or place contiguous to any other building, or in any place nearer to any other building than the distance of Seventy-five Feet at the least (except in houses or buildings then in use for carrying on such manufactories, and then legally entitled to be used for those purposes), upon pain that every person offending therein should for every such offence forfeit and pay the sum of One hundred Pounds :

1.
Repealing
Provision in
recited Act
in certain
cases.

And whereas the said Enactment has been found to be inexpedient; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Penalties named in the said recited Act shall extend to the Owners or Occupiers of any *Pitch, Tar or Turpentine Distillery* which shall be within the distance of Seventy-five Feet from any other building or buildings ; but in case the other building or buildings next adjoining to ⁽¹⁾ *such Distillery* be occupied jointly by the same tenant, and that the whole of such buildings (including ⁽²⁾ *such Distillery* and the said other building or buildings) so jointly occupied by the said tenant be Seventy-five Feet distant from any other building, then the said penalties shall not extend to the occupier or occupiers thereof.

2.
CLAUSE (A.)
Exempting
certain Dis-
tilleries for a
limited time.

And be it Enacted, That no Proprietor or Occupier of any Distillery of Pitch, Tar, or Turpentine, or of any building used for the purposes of the trade of such Distillery, whose Distillery shall have been in operation during the space of Thirty Years at the least next before the passing this Act, shall be liable to any penalty or forfeiture whatever under or by virtue of the provisions of the said recited Act, until the First day of August One thousand eight hundred and Forty.

3.
No Action for
Penalties
under recited
Act to be
brought until
1st September
1839.

And be it Enacted, That no Action or Prosecution shall be brought, commenced or carried on against any *other* person or persons, for the recovery of any penalty incurred by virtue of the said recited Act, until the First day of *January* ⁽³⁾ One thousand eight hundred and Thirty-nine.⁽⁴⁾

4.
Act to be
deemed a
Public Act.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act ; and shall be judicially taken notice of as such by all Judges, Justices and others.

(1) a Turpentine
(2) September

(3) the Turpentine
(4) eight.

Turpentine Penalties.

A

B
I
L,
L,

[AS AMENDED BY THE LORDS]

INTRODUCED,

AN ACT to amend so much of an Act of the
Twenty-fifth Year of King GEORGE the
Third, for the further and better Regulation
of Buildings and Party Walls, and for the
more effectually preventing Mischiefs by
Fire, within the Cities of London and
Westminster, as relates to Manufactories
of Pitch, Tar and Turpentine.

*Ordered, by The House of Commons, to be Printed,
30 July 1838.*

17 January 1838.—1 VICT.



A

B I L L

To make temporary Provision for the Government of Lower Canada.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH ~~HEREAS~~ *WHEREAS* in the present state of the Province of Lower Preamble.
Canada, the House of Assembly of the said Province,
constituted under the Act passed in the thirty-first year of his
Majesty King GEORGE the Third, intituled, “An Act to repeal 31 G. 3, c. 31.
5 certain Parts of an Act passed in the Fourteenth Year of his Majesty’s
Reign, intituled, ‘An Act for making more effectual Provision for the
Government of the Province of Quebec, in North America, and to
make further Provision for the Government of the said Province,’”
10 could not be called together for the purposes in the said Act men-
tioned without serious detriment to the interests of the said Province :
And whereas it is nevertheless expedient that the said Province should
be permanently governed on constitutional principles, adapted to
promote the interests of all classes of Her Majesty’s Subjects in the
said Province: And whereas, in order to the preparation of such
15 measures as it may be desirable to propose to Parliament for im-
proving the Constitution of the Provinces of Lower Canada and
Upper Canada, or either of them, and for regulating divers questions
in which the said Provinces are jointly interested, Her Majesty hath
been pleased to authorize the Governor-general of Her Majesty’s
20 Provinces in North America to summon a Meeting, to be holden
within the said Provinces of Lower Canada and Upper Canada,
consisting of the said Governor-general and of certain Persons to be
by Her Majesty or on Her Majesty’s behalf for that purpose appointed
83.

and also consisting of certain other persons representing the interests and opinions of Her Majesty's Subjects inhabiting the said Provinces : And whereas it is in the mean time necessary that temporary provision should be made for the Government of the said Province of Lower Canada ; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT until the *First* day of *November One thousand eight hundred and Forty*, so much and such parts of the last-recited Act and of any other Act or Acts of Parliament as constitute a Legislature for the Province of Lower Canada, or as relate to the powers or functions of the Bodies composing that Legislature, or either of those Bodies, shall cease to be in force.

1.
The Powers
of the present
Legislature
of Lower
Canada sus-
pended.

2.
Her Majesty
may appoint
Legislative
Councillors
for Lower
Canada.

And be it Enacted, That it shall be lawful for Her Majesty, by any Commission or Commissions to be from time to time issued under the Great Seal of the United Kingdom, or by any Instructions under Her Majesty's Signet and Sign Manual accompanying any such Commission, to appoint or to authorize the Governor of the said Province of Lower Canada to appoint from time to time such a number of Legislative Councillors for the said Province of Lower Canada as to Her Majesty shall seem meet, and to make such provision as to Her Majesty shall seem meet for the removal, suspension or resignation of any such Legislative Councillors.

3.
The Governor
and Legis-
lative Coun-
cillors may
make Ordi-
nances having
the force of
Law.

And be it Enacted, That it shall be lawful for the Governor of the said Province, with the advice and consent of the said Legislative Councillors, or of the major part of them, to make Ordinances for the peace, welfare and good government of the said Province of Lower Canada, which Ordinances shall have the force and effect of law therein ; provided that no such Ordinance shall be made to continue in force beyond the *First* day of *November One thousand eight hundred and Forty-two*.

4.
But not
except at a
Meeting con-
vened by the
Governor, and
attended by
Five Coun-
cillors.
No Taxes to
be imposed
except for the
continuance
of Local
Rates.

Provided always, and be it Enacted, That it shall not be competent to the said Legislative Councillors to act in that capacity, except at a meeting to be for that purpose convened by the Governor of the said Province, at which the said Governor and *Five* such Councillors at the least shall be actually present : Provided always, That no such Ordinance as aforesaid shall be made, unless the same shall have been first proposed by the said Governor for the adoption of the said Legislative Councillors ; and provided that it shall not be lawful by any such Law or Ordinance as aforesaid, to alter in any respect the Law heretofore existing in the said Province respecting the constitution or composition of the Legislative Assembly thereof, or respecting the right of any person

person to vote at the Election of any Member of the said Assembly, or respecting the Qualifications of such Voters, or respecting the Division of the said Province into Counties, Cities and Towns for the purpose of such Elections: Provided also, That it shall not be lawful by any
 5 such Law or Ordinance as aforesaid, to impose any Tax, Duty, Rate or Impost, save only in so far as any Local Rates or Assessments which at the date of the present Act are payable within the said Province may by any such Law or Ordinance be continued in force.

And be it Enacted, That it shall be lawful for the said Governor,
 10 nor, with the advice and consent aforesaid, by any such Laws or Ordinances as aforesaid, to appropriate to Her Majesty's Service within the said Province, all Monies which now are or which shall hereafter be in the hands of the Receiver-General thereof, whether arising from the proceeds of any Duties or Taxes, or from any
 15 other of Her Majesty's Revenues accruing within the said Province; and also to appropriate a sufficient part of such Monies towards the repayment of any sum or sums of money which shall have been issued out of the sum of One hundred and forty-two thousand one hundred and sixty Pounds Fourteen Shillings and Sixpence, granted to Her
 20 Majesty by an Act passed in the last Session of Parliament, for advances on account of charges for the Administration of Justice and of the Civil Government of the Province of Lower Canada, upon a Certificate from the Commissioners of Her Majesty's Treasury, or any Three or more of them, setting forth the several sums which had been
 25 so advanced for any of the purposes aforesaid: Provided always, That no appropriation to be made of the Monies aforesaid, in respect of the Public Service for any one year shall exceed the total amount of the sums appropriated by law within the said Province for the Public Services thereof in the year *One thousand eight hundred and Thirty-*
 30 *two.*

5.
 Governor in Council may appropriate the Revenue.

But not to an amount exceeding the Appropriation of 1832.

And be it Enacted, That all the provisions contained in the said recited Act of the thirty-first year of the reign of his said Majesty King
 GEORGE the Third, in reference to the enactment and to the confirmation or disallowance by his said Majesty, or for reserving for the
 35 signification of his said Majesty's pleasure of Laws enacted by the Legislature by the said Act constituted, shall apply to and be in force respecting all Laws and Ordinances to be made in pursuance of this present Act, in so far as the same can so be applied.

6.
 The Provisions of the 31 G. 3, c. 31, respecting the allowance of Laws, to apply to Ordinances of the Governor in Council.

And be it Enacted, That at any time before the arrival of the period
 40 so limited as aforesaid, for the suspension of such legislative powers as aforesaid, it shall be lawful for Her Majesty, by any Order to be
 83. made

7.
 Her Majesty in Council may terminate the preceding enactments by an Order to be

made during
the non-ses-
sion of Par-
liament.

8.
The term
Governor
defined.

made with the advice of Her Majesty's Privy Council, to declare that, from a time to be by such Order for that purpose appointed, all the preceding enactments shall cease to be in force, and the same shall cease to be in force from that time accordingly.

And be it Enacted, That for the purposes of this Act, any person 5
authorized to execute the Commission of Governor of the Province of
Lower Canada shall be taken to be the Governor thereof.

Lower Canada Government.

A

B I L L

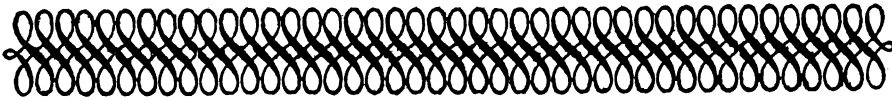
To make temporary Provision for the
Government of Lower Canada.

(Prepared and brought in by
Lord John Russell, Lord Viscount Howick
and Sir George Grey.)

Ordered, by The House of Commons, to be Printed,
17 January 1838.

83.

25 January 1838.—1 VICT.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To make temporary Provision for the Government of *Lower Canada*.

[N. B.—The Clauses marked (A. to H.) were added by the
Committee.]

WHEREAS in the present state of the Province of *Lower* Preamble:
Canada, the House of Assembly of the said Province,
constituted under the Act passed in the thirty-first year of his
Majesty King GEORGE the Third, intituled, “An Act to repeal 31 G. 3, c. 31.
5 certain Parts of an Act passed in the Fourteenth Year of his Majesty’s
Reign, intituled, ‘An Act for making more effectual Provision for the
Government of the Province of *Quebec*, in *North America*, and to
make further Provision for the Government of the said Province,”
cannot be called together without serious detriment to the interests of
10 the said Province, by reason whereof the Government of the said Province
cannot be duly administered according to the provisions of the said Act:
And whereas it is nevertheless expedient that the said Province shall
be permanently governed on constitutional principles, adapted to
promote the interests of all classes of Her Majesty’s Subjects in the
15 said Province: And whereas, in order to the preparation of such
measures as it may be desirable to propose to Parliament for im-
proving the Constitution of the Provinces of *Lower Canada* and
Upper Canada, or either of them, and for regulating divers questions
in which the said Provinces are jointly interested, Her Majesty hath
20 been pleased to authorize the Governor-general of Her Majesty’s
Provinces in *North America* to summon a Meeting, to be holden
within one of the said Provinces of *Lower Canada* and *Upper Canada*,
consisting of the said Governor-general and of certain Persons to be
by Her Majesty or on Her Majesty’s behalf for that purpose appointed
84. and

of King GEORGE the Third, and of any other Act or Acts of Parliament, as constitutes or provides for the constitution or calling of a Legislative Council or Legislative Assembly for the Province of *Lower Canada*, or as confers any powers or functions upon the said Legislative Council and Legislative Assembly, or either of those 5
bodies, shall cease and be of no force.

2.
Her Majesty
may appoint
a Legislative
Council for
the Affairs of
Lower
Canada.

And be it Enacted, That it shall be lawful for Her Majesty, by any Commission or Commissions to be from time to time issued under the Great Seal of the United Kingdom, or by any Instructions under Her Majesty's Signet and Sign Manual, and with the Advice of Her Privy 10
Council, to constitute a Special Council for the affairs of *Lower Canada*, and for that purpose to appoint or authorize the Governor of the Province of *Lower Canada* to appoint such and so many Special Councillors as to Her Majesty shall seem meet, and to make such provision as to Her Majesty shall seem meet for the removal, suspension 15
or resignation of all or any such Councillors.

3.
CLAUSE (A.)
The Governor
and Council
may make
Ordinances
having the
force of Law.

And be it Enacted, That from and after such proclamation as aforesaid, and until the said First day of November in the year One thousand eight hundred and Forty, it shall be lawful for the Governor of the Province of *Lower Canada*, with the advice and consent of the 20
majority of the said Councillors present at a meeting or meetings to be for that purpose from time to time convened by the Governor of the said Province, to make such Laws or Ordinances for the peace, welfare and good government of the said Province of *Lower Canada*, as the Legislature of *Lower Canada*, as now constituted, is empowered to 25
make ; and that all Laws or Ordinances so made, subject to the provisions hereinafter contained for disallowance thereof by Her Majesty, and for reserving certain Laws or Ordinances for the signification of Her Majesty's pleasure thereon, shall have the like force and effect as Laws passed before the passing of this Act by the Legislative 30
Council and Assembly of the said Province of *Lower Canada*, and assented to by Her Majesty, or in Her Majesty's name by the Governor of the said Province : Provided always, That no such Law or Ordinance shall be made unless the same shall have been first proposed by the said Governor for adoption by the Council, nor unless the said 35
Governor and Five at least of the said Councillors shall be actually present when such Law or Ordinance shall be made : Provided also, That no Law or Ordinance so made shall continue in force beyond the First day of November in the year One thousand eight hundred and Forty-two, unless continued by competent authority : Provided also, That it shall 40
not be lawful by any such Law or Ordinance to impose any tax, duty, rate or impost, save only in so far as any tax, duty, rate or impost which at the passing of this Act is payable within the said Province may be thereby continued : Provided also, That it shall not be lawful, by any such Law or Ordinance, to alter in any respect the Law now existing
in

Such Ordinances not to affect existing

in the said Province respecting the constitution or composition of the Legislative Assembly thereof, or respecting the right of any Person to vote at the Election of any Member of the said Assembly, or respecting the Qualifications of such Voters, or respecting the division of the said Province into Counties, Cities and Towns for the purpose of such Elections; nor shall it be lawful by any such Law to repeal, suspend or alter any provision of any Act of the Imperial Parliament of *Great Britain*, or of any Act of the Legislature of *Lower Canada*, as now constituted, repealing or altering any such Act of the Imperial Parliament.

Laws respecting Rights of Election, &c.

Provided always, and be it Enacted, That it shall not be lawful by any such Law or Ordinance to appropriate any Monies which now are or which shall hereafter be in the hands of the Receiver-General of the said Province of *Lower Canada* towards the repayment of any sum or sums of money which shall have been issued out of the sum of One hundred and forty-two thousand one hundred and sixty Pounds Fourteen Shillings and Sixpence, granted to Her Majesty by an Act passed in the last Session of Parliament, for advances on account of charges for the administration of justice and of the Civil Government of the Province of *Lower Canada*, unless upon a Certificate from Three or more of the Commissioners of Her Majesty's Treasury, setting forth the several sums which shall have been so advanced for any of the purposes aforesaid: Provided also, That, exclusive of any such repayment as aforesaid, no appropriation to be made by any such Law or Ordinance of the Monies aforesaid, in respect of the Public Service for any one year shall exceed the total amount of the sums appropriated by law within the said Province for the Public Service thereof for the year One thousand eight hundred and Thirty-two.

4.
CLAUSE (B.)
Such Ordinance may not appropriate the Revenue for repayment of the sum of 142,160*l.* unless on Certificate of Commissioners of Treasury;

nor to an amount exceeding the Appropriation of 1832.

And be it Enacted, That the Governor of the said Province is hereby required by the first convenient opportunity to transmit to one of Her Majesty's Principal Secretaries of State an authentic copy of every Law or Ordinance made under the authority of this Act; and that it shall be lawful, at any time within Two Years after such Law or Ordinance shall have been so received by such Secretary of State, for Her Majesty, Her heirs or successors, by Her or their Order in Council, to declare Her or their disallowance of such Law or Ordinance; and that such disallowance, together with a certificate under the hand and seal of such Secretary of State, testifying the day on which such Law or Ordinance was received as aforesaid, being signified by such Governor by proclamation within the said Province, shall make void and annul the same from and after the date of such signification.

5.
CLAUSE (C.)
Ordinances may be disallowed by Her Majesty in Council.

6.
CLAUSE (D.)
Declaratory
Clause for the
continuance
of Statutes
in force.

And be it Enacted, That nothing herein contained shall be taken to affect or invalidate any Law, Statute or Ordinance now in force within the said Province of *Lower Canada*, or in any part thereof, except in so far as the same is repugnant to this Act.

7.
CLAUSE (E.)
Proclamation
of this Act.

And be it Enacted, That this Act shall be proclaimed by the Governor of the said Province of *Lower Canada* within the said Province, and shall commence and take effect within the said Province from the Proclamation thereof.

8.
The term
Governor
defined.

And be it Enacted, That for the purposes of this Act, any person authorized to execute the Commission of Governor of the Province of *Lower Canada* shall be taken to be the Governor thereof.

Lower Canada Government.

A

B I L L

[AS AMENDED BY THE COMMITTEE, AND
ON REPORT]

To make temporary Provision for the
Government of *Lower Canada*.

(Prepared and brought in by
Lord John Russell, Lord Viscount Howick
and Sir George Grey.)

Ordered, by The House of Commons, to be Printed,
27 January 1838.

13 August 1838.—2 VICT.



A

B I L L,

INTITULED,

AN ACT for indemnifying those who have issued or acted under certain Parts of a certain Ordinance made under Colour of an Act passed in the present Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada."

[Note.—The Figures in the Margin denote the Number of Presses in the Ingrossment.]

W~~HEREAS~~ an Act was made this present Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada :"
Preamble : 1 Vict. c 9

And whereas a certain Law or Ordinance hath been made and published by the Governor of the said Province, by and with the advice and consent of the Special Council, bearing date the twenty-eighth day of June last, intituled, "An Ordinance to provide for the Security of the Province of Lower Canada," which Ordinance cannot be justified by law, but was so much intended for the security of the said Province, that it is expedient that all persons advising or acting under or in obedience to so much of the same as relates to the sending of certain persons to Bermuda, who are stated in the same to have made certain confessions, and to the subjecting such persons to restraint, should be indemnified by Parliament in the manner and to the extent hereinafter provided for ;

BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by
702. the

1.
Indemnity
for Persons
advising or
acting under
an Ordinance
of the Govern-
nor and
Council of
Lower
Canada of
the 28th of
June last.

the Authority of the same, THAT all personal actions and suits, indict- 2
ments, informations, and all prosecutions and proceedings whatsoever
which have been or shall be prosecuted or commenced in any Court,
or before any Tribunal in any part of Her Majesty's Dominions,
against any person or persons for or by reason of any act, matter or
thing advised, commanded, appointed or done in relation to the premises
before the proclamation of this Act in the said Province of Lower Ca-
nada, and in the Island of Bermuda respectively, or elsewhere, in man-
ner hereinafter provided, be, are and shall be discharged and made void
by virtue of this Act, and that if any action or suit shall be prosecuted or
commenced against any person or persons for any such act, matter
or thing so advised, commanded, appointed or done, he, she or they
may plead the General Issue, and give this Act and the special
matter in evidence; and if the plaintiff or plaintiffs in any action
or suit so to be prosecuted or commenced, except in that part of
Great Britain called Scotland, after the First day of October next,
shall become nonsuit, or forbear further prosecution, or suffer dis-
continuance; or if a verdict pass against such plaintiff or plaintiffs,
the defendant or defendants shall recover his, her or their Double 3
costs, for which he, she or they shall have the like remedy as in
cases where costs by law are given to defendants; and if any such
action or suit as aforesaid shall be commenced or prosecuted after
the First day of October next in that part of Great Britain called
Scotland, the Court before whom such action or suit shall be
commenced or prosecuted, shall allow to the defender the benefit of
the discharge and indemnity hereby provided, and shall further allow
to him his Double costs of suit in all such cases as aforesaid.

2.
Act to be
proclaimed.

And be it Enacted, That this Act shall be proclaimed in the said
Province of Lower Canada and in the said Island of Bermuda, by
the Governor, or by the person authorized to execute the commission
of Governor of the said Province and of the said Island respectively,
forthwith after he shall have received a copy of the same from one of
Her Majesty's Principal Secretaries of State.

Canada Government Act Indemnity.

A

B I L L,

INTITULÉ,

AN ACT for indemnifying those who have issued or acted under certain Parts of a certain Ordinance made under Colour of an Act passed in the present Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada."

*Ordered, by The House of Commons, to be Printed,
13 August 1838.*

7 May 1838.—1 VICT.



A

B I L L

For making further Investments from the Money of the Suitors
of the Court of Chancery and the Court of Exchequer, and
for providing for the payment into Court of Fees received
by certain Officers of the Lord Chancellor.

WH **H**EREAS by virtue of several Acts of Parliament divers **Preamble.**

Sums of Money have been taken out of the common and
general Cash belonging to the Suitors of the High Court of Chancery,
which lay dead and unemployed in the Bank of England, and have
5 been placed out in the name of the Accountant General of the said
Court or Government or Parliamentary Securities; and such Govern-
ment or Parliamentary Securities have been carried to an Account,
intituled, "Account of Monies placed out for the Benefit and better
Security of the Suitors of the High Court of Chancery;" and it may
10 be expedient that further Sums be taken out of the said common and
general Cash, and may be in like manner placed out in the like
Securities;

BE it therefore Enacted, by The QUEEN's most Excellent MA-
JESTY, by and with the Advice and Consent of the Lords Spiritual
15 and Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, THAT out of the said Cash
belonging to the Suitors of the said Court of Chancery which may
be standing to the credit of the Accountant General of the said Court,
and may be lying dead and unemployed in the Bank of England, any
20 Sum or Sums of Money shall and may, by virtue of any Order or
Orders of the Lord High Chancellor to be made for that purpose
from time to time, be placed out in one entire Sum or in parcels, in the
name of the said Accountant General, on such Government or Parlia-
mentary Securities as in and by such Order or Orders shall be
25 directed; and such Sums shall be carried to the said Account, in-
tituled, "Account of Monies placed out for the Benefit and better
Security of the Suitors of the High Court of Chancery."

1.
Power to
invest further
part of the
Monies be-
longing to the
Suitors in
Chancery.

365.

A

And

2.
Power to
invest Interest.

And be it Enacted, That the Interest and annual produce which may arise from the Monies hereby authorized to be placed out as aforesaid, and also the Interest produced from the securities purchased with such Interest and annual produce, or so much thereof as shall not be otherwise applied under the provisions of any Act or Acts of Parliament, shall from time to time be placed out in the purchase of Government or Parliamentary Securities, in the name of the said Accountant General, and be placed to the credit of the Account now standing in his name, intituled, "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery."

3.
Reciting Act
for appointing
Accountant
General of
the Court of
Exchequer.

AND whereas, by virtue of an Act passed in the first year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster, on account of the Suitors of the said Court, and for the appointment of an Accountant General and two Masters of the said Court, and for other Purposes," an Accountant General has been appointed of the Court of Exchequer, with power to do all matters and things relating to the delivering, securing and investing of the Monies and Effects of the Suitors of the said Court; and under and by virtue of the authority for that purpose given by the same Act, a sum of Sixty-five thousand Pounds, part of the Monies belonging to the Suitors of the said Court, lying dead and unemployed, has been placed out in the name of the said Accountant General of the Court of Exchequer, in the purchase of

Power to
invest further
Sums, part of
the Suitors'
Monies, in
the Court of
Exchequer.

and such Annuities now stand at the Bank of England in the name of the said last-mentioned Accountant General to an Account, intituled, "An Account of Monies placed out for the Benefit and Security of the Suitors of the Court of Exchequer:" AND whereas there is now a large sum of Money belonging to the said Suitors, over and above the said sum so invested, lying dead and unemployed, and it may be convenient to make further investments out of the said Monies from time to time as circumstances will permit; BE it therefore Enacted, That out of the said Monies belonging to the Suitors of the said Court of Exchequer which may be standing to the credit of the Accountant General of the said Court, and may be lying dead and unemployed at the Bank of England, any sum or sums of Money shall and may by virtue of any Order or Orders of the Court of Exchequer, or of the Lord Chief Baron of the said Court, or of any Baron to be nominated and appointed by Her Majesty under the power given for that purpose by the said last-recited Act to be made for that purpose from time to time, be placed out in one entire sum or in parcels, in the name of the said last-mentioned Accountant General, in such Government or Parliamentary

Parliamentary Securities as in and by such Order or Orders shall be directed ; and such Securities shall be carried to the said before-mentioned Account, intituled, " Account of Monies placed out for the benefit and better security of the Suitors of the Court of Exchequer."

- 5 And be it further Enacted, That the Interest and annual produce which may arise from the Monies hereby lastly authorized to be placed out as aforesaid, and also the Interest produced from the Securities purchased with such Interest and annual produce, or so much thereof as shall not be otherwise applied under the provisions of any Acts of
10 Parliament relating thereto, shall from time to time be placed out in the purchase of Government or Parliamentary Securities, in the name of the said last-mentioned Accountant General, and be placed to the credit of an Account in his name, to be intituled, " Account of Securities purchased with surplus Interest arising from Securities
15 carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the Court of Exchequer."

4.
Power to
invest Interest.

- And be it Enacted, That if at any time hereafter the whole or any part of the Monies to be placed out in pursuance of the aforesaid provisions to either of the Accounts hereinbefore mentioned, shall be
20 wanted to answer any of the demands of the Suitors of either of the said Courts of Chancery or Exchequer, then and in such case the said Lord Chancellor, as to funds in the name of the Accountant General of the Court of Chancery, and the said Court of Exchequer, as the Lord Chief Baron or other Baron, to be nominated and appointed as
25 aforesaid, as to funds in the name of the Accountant General of the said Court of Exchequer, may and shall direct the whole or any part of the Monies to be placed out as aforesaid to be called in, and the securities in which the same and the surplus interest and dividends hereinbefore mentioned shall be placed to be sold and disposed of, in
30 order that the Suitors of the said respective Courts may at all times be paid their respective demands out of the common and general cash belonging to such Suitors.

5.
Funds may be
sold to meet
demands of
Suitors.

- And be it Enacted, That it shall be lawful for the Lord Chancellor, as to the funds of the said Court of Chancery, and for the Court of
35 Exchequer, as the Lord Chief Baron or other Baron to be nominated and appointed as aforesaid, as to the funds of the said Court of Exchequer, by any Order or Orders, to authorize the change of the security or securities, or of any part of the securities, to be purchased pursuant to this Act.

6.
Power to
change Secu-
rities.

- 40 AND whereas by an Act passed in the Session of Parliament holden in the third and fourth years of the reign of King WILLIAM the Fourth, intituled, " An Act for the Regulation of the Proceedings
365. and

7.
Fees of Offi-
cers may be
paid into the
Bank of
England.

and Practice of certain Offices of the High Court of Chancery in England," an Account has been raised in the books of the Bank of England, in the name of the said Accountant General, intituled, " The Suitors' Fee Fund Account ;" BE it Enacted by the authority aforesaid, That it shall be lawful for the Lord High Chancellor, by any order or orders, from time to time to direct that any fees, or monies arising from fees, heretofore received or which may be hereafter received by or on account of any officer appointed or to be appointed by the Lord High Chancellor, holding his office at the pleasure of the said Lord High Chancellor, or during the vacancy of any such office, shall be paid into the Bank of England, in the name of the said Accountant General, to be placed to the credit of the said Account, intituled, " The Suitors' Fee Fund Account," and be applied as part of such fund. 5 10

8.
As to the
exercise of
the Powers
given by this
Act.

And be it Enacted, That the powers and authorities given by this Act to the Lord High Chancellor shall and may be exercised in like manner, and are hereby given to the Lord Keeper or Lords Commissioners for the custody of the Great Seal respectively for the time being. 15

9.
Act may be
altered this
Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament. 20

10.
Public Act.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such, by all Judges and others.

Suitors' Money.

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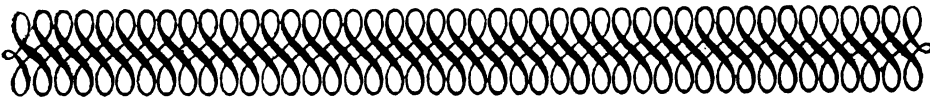
B I L L

For making farther Investments from the Money of the Suitors of the Court of Chancery and the Court of Exchequer, and for providing for the payment into Court of Fees received by certain Officers of the Lord Chancellor.

(Prepared and brought in by
Mr. Solicitor General and Mr. Attorney
General.)

Ordered, by The House of Commons, to be Printed,
7 May 1838.

8 March 1838.—1 VICT.



(Ireland.)

A

B I L L

To restore the ancient Jurisdiction of the Court of Chancery in *Ireland*, enabling Masters of that Court upon Petition to execute Renewals of Leases for Lives containing Covenants for Renewal in the Names of Persons bound by such Covenants to execute the same, and being out of the Jurisdiction of the Court, and to extend such Powers to Cases of Terms for Years, or Lives dependent upon Years.

WH **H**EREBY by an Act passed in the Parliament of *Ireland*, Preamble.
in the eleventh year of the reign of Queen ANNE, intituled,
“An Act to enable Guardians and others to renew Leases for
Lives,” it was, amongst other things, enacted, that where any person
5 or persons who, by covenant or agreement, were obliged to make
renewal of Leases for Lives of lands, tenements or hereditaments, in
the Kingdom of *Ireland*, were or should be disabled to renew, by
reason of being beyond the seas, it should and might be lawful to
and for the Lord Chancellor, or Commissioner or Commissioners of
10 the Great Seal of that Kingdom for the time being, upon petition
or complaint made to him or them in the High Court of Chancery,
upon payment of the fine, and such other sum or sums of money
as ought to be paid upon such renewal, for the use of the person or
persons entitled to the same, and upon the Lessee or Lessees doing
15 and performing all and every such matters and things as by the said
covenants or agreements in the said Lease or Leases ought to be done
or performed by him or them previous to such renewal, to order or
appoint such renewal or renewals to be made by one of the Masters
of the said Court of Chancery, to be nominated and appointed by
20 the said Lord Chancellor, or Commissioner or Commissioners of the
Great Seal for the time being, such Master so nominated and
appointed to make and execute such deed of renewal in the name
of
193.

of the person who ought to have renewed the same ; such deed or deeds of renewal so made and executed by the said Master or Masters, counterparts thereof being duly perfected by the Lessee or Lessees, for the use and benefit of the person or persons having the reversion and inheritance of such lands, tenements, or hereditaments comprised 5 in such deed or deeds, to be as good and effectual in law or equity, to all intents and purposes, as if the person or persons under such disability had not been so disabled, and had executed the same :

And whereas by an Act passed in the first year of the reign of his 10 late Majesty King WILLIAM the Fourth, intituled, " An Act for consolidating and amending the Laws relating to Property belonging to Infants, Femes Covert, Idiots, Lunatics, and Persons of unsound Mind," after reciting the said last-mentioned Act, and that it was expedient that the provisions thereof, which had been so long in force in 15 *Ireland*, should remain unaltered, it was enacted that the clauses and provisions contained in the said therein recited Act should be and continue in force in the same manner, to all intents and purposes, as if the said clauses and provisions and every part thereof had been repeated and re-enacted in the said Act ; and that none of the other provisions 20 in the said Act contained for authorizing any surrenders to be accepted, or any new Lease to be made or executed for or on behalf of any person who, in pursuance of any covenant or agreement for renewal in any Lease contained, or to be contained, ought to make such new Lease or Leases, should extend, or be construed to extend, 25 to Lands in *Ireland* :

And whereas by an Act passed in the fifth and sixth years of his late Majesty King WILLIAM the Fourth, intituled, " An Act to extend to *Ireland* certain Provisions of an Act made and passed in the first Year of his late Majesty's Reign, intituled, ' An Act for con- 30 solidating and amending the Laws relating to Property belonging to Infants, Femes Covert, Lunatics, and Persons of unsound Mind,' " the said recited Act of the eleventh year of the reign of Queen ANNE, and so much of the said Act of the first year of the reign of his said late Majesty as re-enacted the provisions of the said last-mentioned 35 Act contained, were thereby repealed, and the powers given by the same, in respect to persons being beyond the seas, were not continued or extended :

And whereas it is expedient that the powers given by the said recited Acts of the eleventh year of the reign of Queen ANNE and of 40 the first year of the reign of King WILLIAM the Fourth to the Court of Chancery in *Ireland*, in respect to persons being beyond the seas, should be continued to the said Court of Chancery in *Ireland*, and should

should be extended to renewals of Leases for terms of years, or Lives dependent upon years ;

- BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords
 5 Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT where any person who in pursuance of any covenant or agreement, in writing might, if within the jurisdiction and amenable to the process of the Court of Chancery in *Ireland*, be compelled to execute a renewal of
 10 any Lease made, or to be made, for the life or lives of one or more person or persons, or for any term or number of years absolutely or determinable on the death of one or more person or persons, shall be beyond the seas, or not within the jurisdiction of or not amenable to the process of the said Court, it shall be lawful to and for the said
 15 Court of Chancery, by an order to be made upon the petition of any person or any of the persons entitled to such renewal (whether such person be or be not under any disability), upon payment of the fine, and such other sum or sums of money as ought to be paid upon such renewal for the use of the person or persons entitled
 20 to the same, and upon the the Lessee or Lessees doing and performing all and every such matters and things as by the said covenants or agreements in the said Lease or Leases ought to be done or performed by him or them previous to such renewal, to order or appoint such renewal or renewals to be made by one of the Masters of the said
 25 Court of Chancery, to be nominated by the said Court for such purpose; and such Master so nominated shall make and execute such deed of renewal in the name of the person or persons who ought to have renewed the same, which deed or deeds of renewal so made and executed by the said Master or Masters, counter-parts thereof being duly perfected by the Lessee or Lessees, for the use
 30 and benefit of the person or persons having the reversion and inheritance of such lands, tenements or hereditaments comprised in such deed or deeds, shall be as good and effectual in law and equity, to all intents and purposes, as if the person in whose name the same
 35 shall be made, had executed the same, and had been alive, and not under any disability ; but in every such case it shall be in the discretion of the said Court of Chancery in *Ireland*, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the renewal, and not to make the order for such new lease or renewal, unless by the decree to be made in such cause, or until after such decree shall have been made.

Masters of the Court of Chancery in Ireland empowered to grant renewals of Leases for Years or Lives.

Court of Chancery (Ireland).

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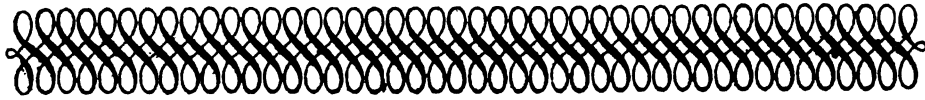
B I L L

To restore the ancient Jurisdiction of the Court of Chancery in *Ireland*, enabling Masters of that Court upon Petition to execute Renewals of Leases for Lives containing Covenant for Renewal in the Names of Persons bound by such Covenants to execute the same, and being out of the Jurisdiction of the Court, and to extend such Powers to Cases of Terms for Years, or Lives dependent upon Years.

(Prepared and brought in by
Mr. Litton and Mr. Leffroy.)

*Ordered, by The House of Commons, to be Printed,
8 March 1838.*

19 February 1838.—1 VICT.



(Ireland.)

A

B I L L

For appointing Commissioners to Inquire concerning Charities
in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in
the Committee.]

W^H**E**^R**E**<sup>E^S it is expedient that the Charities in Ireland **Preamble.**
should be inquired into, and their objects clearly defined
and made known to the Public, and all abuses corrected; **B**^E **i**<sup>t
~~therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by
5 and with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
Authority of the same, THAT it shall and may be lawful for Her
Majesty to issue a Commission under the Great Seal to any number of
persons, not fewer than *Ten*, who shall be constituted Commissioners
10 for the purposes intended by this Act; and that they the said Com-
missioners shall and they are hereby empowered and required, in
manner hereinafter mentioned, to examine into and investigate the
amount, nature and application of all Estates and Funds of what
nature or kind soever, and the produce thereof, destined or intended to
15 be applied to the purpose of educating the Poor in Ireland, or to the
support of any Charity or Charities, or charitable Donation or Do-
nations for the benefit of poor Persons in Ireland; or held under
trusts created for any charitable uses or purposes whatever in Ireland
(except as is hereinafter provided and excepted), and to examine into
20 and investigate all breaches of trust, irregularities, frauds, abuses or
supposed abuses, or misconduct in relation to and in the manage-
ment or appropriation or nonappropriation or misappropriation of
such Estates and Funds; and the said Commissioners shall from time
to time, during the continuance of this Act, report and certify, in
25 writing under their hands and seals, to the Queen's most Excellent
Majesty, their proceedings touching the amount, nature, manage-
ment, application and appropriation of such of the aforesaid Estates
and Funds as they shall have inquired and examined into, and also</sup></sup>

1.
Commis-
sioners to be
appointed to
inquire into
the nature
and manage-
ment of Cha-
rities.

what is the nature of such Estates and Funds respectively, and the actual annual produce thereof, and what is the actual annual value thereof, and in whose possession, as tenants thereof, any part thereof, consisting of lands, tenements or hereditaments shall be, adding, at the same time, such observations as shall occur to them respecting such mode as they shall deem most effectual for the recovering of such part or parts of such Estates or Funds as shall appear to them to have been applied in breach of the several trusts created in respect of the same, or shall appear to have been omitted to be applied in pursuance of such trusts, and subjoining such suggestions as may seem to them expedient respecting the most effectual mode of securing such Estates and Funds and their respective produce against any future misapplication thereof, together with such general suggestions as may appear to them most expedient for the recovery, management and application of all charitable bequests and donations whatsoever.

2.
Com-
mis-
sioners to re-
port special
circumstances
where Funds
cannot be
applied to
destined pur-
poses.

And be it Enacted, That if upon such inquiry as aforesaid it shall appear to the said Commissioners that, from any cause whatsoever, it has become impossible to apply the Estates or Funds aforesaid, or any part thereof, to the purposes to which the same were destined or directed to be applied, the said Commissioners shall report the special circumstances of each case, together with such general suggestions as may appear to them most expedient.

3.
Salaries to a
limited num-
ber of Com-
missioners.

And be it Enacted, That no remuneration shall be given for and in respect of the execution of this Act to such of the said Commissioners as shall be members of either House of Parliament, nor to any number exceeding *Five* of the Commissioners; but there shall be allowed and paid to every such Commissioner a salary at the rate of *Eight Hundred Pounds* a year, to be paid half-yearly, clear of all taxes and deductions whatsoever, together with such reasonable sums for and in respect of such travelling expenses as may be incurred in the execution of this Act as in the judgment of the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being, shall be deemed requisite.

4.
Commis-
sioners to
take Oath
before enter-
ing upon their
duties.

And be it Enacted, That each of the said Commissioners to be appointed by virtue of this Act shall, previously to his entering upon the execution of the same, take an oath before the Chancellor of the Exchequer, or the Master of the Rolls for the time being (which Oath they are hereby respectively authorized and required to administer), the tenor whereof shall be as followeth; (that is to say)

"I, A. B., do swear, That, according to the best of my skill and knowledge, I will faithfully, impartially, and truly execute the several powers and trusts vested in me by an Act, intituled [here insert the title of this Act], according to the tenor and purport of the said Act."

And

And be it Enacted, That in case of a vacancy or vacancies by the death, removal or resignation of any such Commissioners, it shall be lawful for Her Majesty, Her heirs and successors, to nominate and appoint such person or persons as She or they may think proper for the supplying of such vacancy or vacancies.

5.
Vacancies of Commissioners may be filled up by the Crown.

And be it Enacted, That it shall and may be lawful for the said Charity Commissioners and they are hereby authorized to appoint and employ such officer or officers, not exceeding in the whole *One* Secretary, *Two* Clerks and *One* Messenger, as they shall think meet, and to administer to each of such officers an oath for his true and faithful demeanor in all things relating to the due performance of any trust respecting the execution of this Act reposed in him, and in all other things touching the premises ; which Secretary, Clerks and Officers are hereby required faithfully to execute and perform the said trust in them severally and respectively reposed, without taking any thing for such their service other than such salary or reward as the said Commissioners shall think fit to direct and appoint in their behalf.

6.
Appointment of Secretary, Clerks, &c.

And be it Enacted, That for the purpose of prosecuting the inquiries and examinations by this Act directed, the said Commissioners, or any one or more of them, shall from time to time hold their or his sittings, with or without adjournment, within the city of Dublin, or in any other city, town, borough, hamlet, village or place respectively in Ireland which to them or him shall appear most convenient for executing the purposes of this Act ; and the said Commissioners or Commissioner are or is hereby authorized to require, by precepts under their or his hands and seals, or hand and seal, from any person or persons acting as a Trustee or Trustees for any of the said Estates or Funds, or having any concern in the management or administration of the same, or in the payment or receipt of any of the said Funds or Estates, or any charge upon any Fund or Estate applicable to any charitable uses or purposes as aforesaid, to render to the said Commissioners or Commissioner a true account, as far as consists with their knowledge, of all that relates to such Funds or Estates as aforesaid under their trust or management, or on account of which they may have acted in making or receiving payments ; and, as often as need shall be, to send their or his precepts, under their or his hands and seals, or hand and seal, for any person or persons whomsoever to attend them or him, and require such person or persons to bring with him, her or them any deed, paper, writing, instrument or other document being in his, her or their custody and possession, and relating to any such Estates or Funds, or the produce thereof, or to the receipt or application, or non-application or misapplication thereof, which shall in the judgment of such Commissioners or Commissioner be conducive and necessary to the due execution of the purposes of this Act ; and every person to whom such precept shall as aforesaid

7.
Commissioners to hold Sittings, and summon persons and send for Papers.

No Person
obliged to
travel more
than Fifteen
Miles.

8
Commis-
sioners em-
powered to
examine upon
Oath.

9.
Examinations
and Papers to
be transmitted
to Office in
Westminster.

10.
Penalties of
Perjury for
false swear-
ing.

21.
Persons re-
fusing to ap-
pear before
Commis-
sioners, or to
produce
Deeds, &c.
or to answer
Questions,
liable to be
fined by the
Court of
King's Bench
or Exchequer.

have been addressed and delivered is hereby required and directed punctually to attend the said Commissioners or Commissioner at such time and place as shall for that purpose have been appointed ; and to every such person or persons may be paid such sum of money as in the judgment of the said Commissioners or Commissioner shall be just and reasonable : Provided always, That no such person shall be obliged to travel in obedience to such precept more than *Fifteen Miles* from his or her place of abode. 5

AND for rendering more effectual all such examinations as are intended to be had under this Act ; BE it Enacted, That the said Commissioners, or one or more of them, are or is hereby authorized to examine upon oath, or upon the affirmation of persons exempted by law from liability to examination upon oath (which oath or affirmation the said Commissioners, or any one or more of them, are or is hereby respectively authorized to administer), all persons whom the said Commissioners, or any one or more of them, are or is by the provisions of this Act empowered to call before them or him to be examined touching all matters and things necessary for the execution of the powers vested in them or him by this Act. 10 15

And be it Enacted, That the said Commissioners respectively shall and they are hereby required to cause the examinations which shall be taken before them respectively, and all papers and documents being parts of such examinations, to be from time to time transmitted to the Secretary of the said Commissioners, at their office in Dublin aforesaid. 20 25

And be it Enacted, That in case any person upon examination on oath or upon affirmation, as the case may be, before the said Commissioners or Commissioner, shall wilfully and corruptly give false evidence, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as under any law now in force in Ireland may be inflicted on persons convicted of wilful and corrupt Perjury. 30

And be it Enacted, That if any person summoned to appear before the said Commissioners, or any one or more of them, shall wilfully omit or refuse to appear before such Commissioners or Commissioner, or to bring or to produce any deed, paper, or writing, instrument or other document, in his or her possession, custody, or power, either as a member or officer of any corporation whatsoever, or in his individual capacity, and which he or she shall be required by the precept of any such Commissioners or Commissioner to produce, relating wholly or in part to the estates or funds which shall be the subject of inquiry before the said Commissioners or Commissioner, or to the receipt 35 40

receipt or application, or nonapplication or misapplication thereof, or to the state of the Schools or Charities which shall be the subject of inquiry before such Commissioners or Commissioner, or the true copy of any part or parts of any deed, paper, writing, or other instrument (and which copy any such Commissioners or Commissioner are or is hereby empowered to require by such precept), or shall refuse to be sworn, or, being a person exempted by law from liability to examination upon oath, to affirm, or, being sworn or having affirmed, as the case may be, shall refuse to answer to and before the said Commissioners or Commissioner, or to answer fully, either as a member or officer of any such corporation, or in his individual capacity, any question on oath or affirmation respectively touching or concerning any matter or thing relating to such estates or funds as aforesaid, or to the state of such Schools or Charities as aforesaid (except in cases excepted by this Act), every such person so refusing to comply with any such lawful requisitions of the said Commissioners or Commissioner shall be liable to the payment of such fine to Her Majesty as the Court of Queen's Bench or the Court of Exchequer, in Ireland, on application made by or on the behalf of the said Commissioners or Commissioner, or by Her Majesty's Attorney General for Ireland for the time being, shall think fit to set and impose, which fine the said Court of Queen's Bench or Court of Exchequer is hereby authorized and empowered to set and impose according to their discretion respectively, and to enforce payment of the same, by attachment or otherwise, in such manner as the said Courts respectively may do in cases of contempt of the same Courts.

Provided always, and be it Enacted, That if any person who shall be summoned to appear before the said Commissioners, or any one or more of them, shall upon his or her examination allege upon oath that he or she hath purchased or obtained for valuable consideration any estate or interest of, in, to, or out of any lands, tenements, rents, or annuities, hereditaments, goods or chattels, touching which he or she shall be sought to be so examined, without fraud or covin, having no notice of any charitable trust or use to which the said lands, tenements, rents, annuities, hereditaments, goods or chattels, or any charge thereon, have or has been given, limited, or directed to be applied, then such person shall not be bound to make further answer to any interrogatory of such Commissioners or Commissioner, nor to produce or show to them or him any deed, paper, writing, instrument, or other document, relating to his or her estate or interest in such lands, tenements, rents, annuities, hereditaments, goods or chattels.

12.
Purchasers
without no-
tice not bound
to answer In-
terrogatories.

And be it Enacted, That the said Commissioners shall and may receive and send by the General Post from and to places within the United

13.
Letters to
and from
Commission-
ers to be free

of Postage, if
sent conform-
ably hereto.

United Kingdom all letters and packets relating solely and exclu-
sively to the execution of this Act free from the duty of postage,
provided that such letters and packets as shall be sent to the
said Commissioners shall be directed to the "Commissioners of
Charities," at their Office in Dublin, and that all such letters and
packets as shall be sent by the said Commissioners shall be in
covers, with the words "Office of Commissioners of Charities," printed
on the same, and be signed on the outside thereof, under such words,
with the name of such person as the said Commissioners, with the con-
sent of the Lords Commissioners of the Treasury, or any *Three* or
more of them, shall authorize and appoint, in his own handwriting
(such name to be from time to time transmitted to the Secretaries of
the General Post Office in London and Dublin), and under such other
regulations and restrictions as the said Lords Commissioners, or any
Three or more of them, shall think proper and direct; and the person so
to be authorized is hereby strictly forbidden so to subscribe any letter
or packet whatsoever except such only concerning which he shall
receive the special direction of his superior officer, or which he shall
himself know to relate solely and exclusively to the execution of this
Act; and if the person so to be authorized, or any other person, shall
send, or cause or permit to be sent, under any such cover, any letter,
paper or writing, or any inclosure other than what shall relate to the
execution of this Act, every person so offending shall be dismissed
from his office, and shall forfeit and pay the sum of *One hundred*
Pounds, one moiety of the said penalty to the use of Her Majesty,
Her heirs and successors, and the other moiety to the use of the person
who shall inform or sue for the same, to be sued for and recovered in
any of Her Majesty's Courts of Record at Dublin; and if any letter,
paper or writing or other enclosure, shall be sent under cover to the
said Commissioners, the same not relating solely and exclusively to the
execution of this Act, they are hereby strictly required and enjoined to
transmit the same forthwith to the Secretary of the Post Office in
Dublin, with the covers under which the same shall be sent, in order
that the contents thereof may be charged with the full rates of
postage.

Penalty and
loss of Office
for sending
Letters not
relating solely
to the busi-
ness of the
Act.

In case of
Letters sent
under cover
to the Com-
missioners,
not relating
solely to the
business of
the Act.

14.
Officers hav-
ing custody of
Records, to
furnish Ex-
tracts if re-
quired by a
Commis-
sioner.

And be it Enacted, That whenever any extract from the enrolment
of any charter or deed, or from any decree, report, record or other
document whatever, deposited or remaining in any of the offices
belonging to or under the control of the Courts of Chancery or Ex-
chequer, or in any public registry, shall be required for the purposes
of this Act by any order signed by *One* of the Commissioners under
this Act, the officer or officers having the custody of such enrolment,
decree, report, record or other document, shall furnish an extract of so
much only as shall be so required of any such enrolment, decree,
report, record or other document; and that any such extract, or any
copy,

copy, which shall be required for the purposes of this Act, by any order signed by *One* of the said Commissioners, of any such enrolment, decree, report, record, or other document, shall not be subject or liable to the payment of any Stamp Duty or other charge whatever; any law, statute or usage to the contrary in anywise notwithstanding.

No Stamp Duty on Extracts or Copies required by a Commissioner.

And be it Enacted, That this Act, or any of the provisions therein contained, shall not extend, or be construed to extend, to Maynooth College or Trinity College, Dublin: Provided always nevertheless, That nothing herein contained shall be construed to exclude from the operation of this Act any Charity or Charitable Institution which may be under the management and control of the above-mentioned Colleges.

15.
Act not to extend to Universities, Public Schools, &c.;

Provided also, and be it Enacted, That this Act, or any of the provisions therein contained, shall not extend, or be construed to extend, to any Institution established, or Society, for charitable purposes, maintained by voluntary contributions, and under the superintendence and control of any committee or governors or other person or persons chosen or appointed out of or by voluntary subscribers thereto: Provided, nevertheless, That the application of any donation or bequest to the general purposes of any such Institution, Establishment or Society, in aid of such voluntary contributions, shall be subject to the examination or interference of the Commissioners appointed under this Act.

16.
Nor to Charities chiefly supported by voluntary Contributions.

And be it Enacted, That whenever it shall appear to the said Commissioners to be appointed under the authority of this Act that the property belonging to any charity consists only of *One* or more annuity or rent-charge, annuities or rent-charges, not exceeding in the whole the yearly sum of *Fifty Pounds*, or that any sum or sums of money not exceeding *Five hundred Pounds* shall be due and payable on account of any Charity, and that there are no existing Trustees or persons legally qualified to receive and give an effectual discharge for such annuity or rent-charge, annuities or rent-charges, or sum or sums of money, it shall and may be lawful for any *Five* of the said Commissioners, by writing under their hands, to empower the resident Minister (Catholic or Protestant), and the Churchwardens or Chapelwardens for the time being of the parish or place interested in such Charity, in case only *One* parish or place is so interested, but if more than *One* parish or place is so interested, then the resident Minister and the Churchwardens or Chapelwardens of some one of the parishes or places interested, to receive the said annuity or rent-charge, annuities or rent-charges, or any arrears thereof, and to apply the same according to the purposes of the charitable donations or bequests thereof, in the same manner as the Trustees of the said Charity would have been bound to do; and the powers to be given to such Minister and Churchwardens or Chapel-

17.
For empowering resident Ministers and Churchwardens to receive Rent-charges belonging to Charities where no existing Trustees.

wardens shall remain in force until Trustees of the said Charity duly appointed shall appear and claim the administration of the Fund thereof, or until Trustees of the said Charity shall be appointed by the Court of Chancery or Court of Exchequer in Ireland; and all receipts to be given by such Minister and Churchwardens or Chapelwardens shall be effectual discharges to the persons liable to the payments of such annuities or rent-charges for all such sums as in such receipts shall be expressed to have been received in respect thereof; and in case of nonpayment of such annuities or rent-charges, or any arrears thereof, it shall and may be lawful for such Minister and Churchwardens or Chapelwardens respectively, during the continuance of the power to be given to them by virtue of the provisions of this Act, to use and exercise all such Powers and remedies for recovering and compelling payment of the said annuities or rent-charges, and the arrears thereof, as the Trustees of the said Charities respectively might or could have done if duly appointed.

18.
Limitation of
Actions.

And be it Enacted, That any action or suit which shall be brought against any Commissioner or Commissioners to be appointed under the authority of this Act, or against any person or persons acting under the authority or by the order of such Commissioners, or any *One* or more of them, for any thing done or acted by him or them under this Act, shall be commenced within *Six* calendar Months next after the fact committed in respect of which such Action or Suit shall be brought or commenced, and not afterwards; and the defendant or defendants in every such Action or Suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if such Action or Suit shall be brought or commenced after the time so limited for bringing the same, then the Jury shall find a verdict for the defendant or defendants; and in such case, or if the Jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her or their action after appearance, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have *Treble* Costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases.

19.
Previously to
presenting
Reports, Com-
missioners
may direct
Attorney-
General to file
Informations.

Provided always, and be it Enacted, That previously to presenting any Report, the said Commissioners shall give directions, in all cases in which they shall think it fit, to the Attorney-General for Ireland to file informations in the Courts of Chancery or Exchequer in Ireland on the matter arising out of such reports, and shall not, nor shall any of the Clerks or Secretaries under this Act, give any information touching any such matters to any person other than the Attorney-General for Ireland or the persons employed by the said Commissioners previous to the directions so by the said Commissioners given to the Attorney-General for Ireland.

And

And be it Enacted, That this Act shall continue in force until the ^{Continuance}
End of the Session of Parliament of One thousand eight hundred and of Act.
Forty.

And be it Enacted, That this Act may be amended, altered or ^{2.}
5 repealed by any Act or Acts to be passed in this present Session of ^{Act may be}
Parliament. ^{amended this}
^{Session.}

Charity Commissioners.

(Ireland.)

A

B I L L

For appointing Commissioners to Inquire
concerning Charities in Ireland.

(Prepared and brought in by
Mr. Barron and Mr. Beames).

Ordered, by The House of Commons, to be Printed,
19 February 1838.

16 July 1838.—2 VICT.



A

B I L L

For further suspending the Appointment to certain Dignities
and Offices in Cathedral and Collegiate Churches, and to
Sinecure Rectories.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH **HEREAS** an Act was passed in the seventh year of the
reign of his late Majesty, intituled, “ An Act for sus-
pending for One Year Appointments to certain Dignities and Offices
in Cathedral and Collegiate Churches, and to Sinecure Rectories :”

Preamble :
6 & 7 W. 4.
c. 67.

- 5 And whereas another Act was passed in the same Session of Parliament,
intituled, “ An Act for carrying into effect the Reports of the Com-
missioners appointed to consider the State of the Established Church
in England and Wales, with reference to Ecclesiastical Duties and
Revenues, so far as they relate to Episcopal Dioceses, Revenues and
10 Patronage ;” in which latter Act are contained certain provisions which
were to continue in force only for one year after the passing thereof, or,
if Parliament should be then sitting, till the end of the Session of Parlia-
ment : And whereas another Act was passed in the last Session of
Parliament to continue the provisions of the first recited Act, and the
15 temporary provisions of the second recited Act until the First day of
August in the year One thousand eight hundred and Thirty-eight,
and, if Parliament should be then sitting, until the end of the then
Session of Parliament :

6 & 7 W. 4.
c. 77.

7 W. 4. and
1 Vict. c. 71.

- And whereas it is expedient to continue the provisions of the said
20 recited Acts for a further time ;

BE it therefore **Enacted**, by The QUEEN's most Excellent
MAJESTY, by and with the Advice and Consent of the Lords Spiritual
594. and

1.
First recited
Act and
certain parts
of second
recited Act
further con-
tinued.

and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the first recited Act, and the temporary provisions of the second recited Act shall continue and be in force until the *First day of August* in the year *One thousand eight hundred and Thirty-nine*, and, if Parliament shall be then sitting, until the *end of that Session of Parliament*.

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2.
This Act not
to prevent
Visitations or
Consecrations.

Provided always, and be it Enacted, That notwithstanding any thing contained in this Act or in the first recited Act, any Bishop or Archdeacon may hold visitations of the Clergy, within the limits of his Diocese or Archdeaconry, and at such visitations may admit Churchwardens, receive presentments, and do all other acts, matters and things by custom appertaining to the visitation of Bishops and Archdeacons in the places assigned to his jurisdiction and authority under or by virtue of the enactments of the secondly-recited Act, and any Bishop may consecrate a new Church or Chapel or a new Burial-ground within his Diocese, as assigned under the provisions of the last-mentioned Act.

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3.
This Act not
to prevent any
Appointment
of the late
Chaplains of
the House of
Commons, or
the succe-
sion of the
Rev. H.
Huntingford.

Provided also, and be it Enacted, That nothing contained in this Act, or in the first recited Act, shall be construed to prevent the appointment, presentation or collation of the Reverend Frederick Vernon Lockwood, the Reverend Edward Repton, or the Reverend Temple Frere (formerly Chaplains to the House of Commons), to any Canonry, Prebend or dignity which is now vacant, or which shall hereafter become vacant during the continuance of the provisions of the recited Acts by virtue of this Act, to which it may please Her Majesty to appoint them, or any of them: nor to prevent the Reverend Henry Huntingford, now Prælector or Lecturer in the Cathedral Church of Hereford, from succeeding to the Canonry or Residentiaryship in the said Church which has become vacant by the death of the Reverend John Clutton, Doctor of Divinity, nor to prevent the appointment of the Reverend Henry Jenkins, Professor of Greek in the University of Durham, to the Canonry designed for him by the late William, Bishop of Durham, and now held by Richard Prosser, Doctor of Divinity, when the same shall become vacant.

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Eccelesiastical Appointments Suspension.

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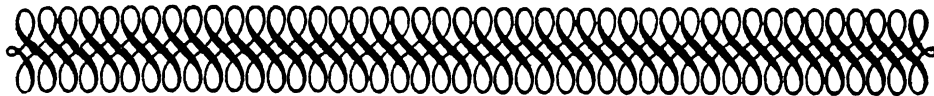
B I L L

For further suspending the Appointment to certain Dignities and Offices in Cathedral and Collegiate Churches, and to Sinecure Rectories.

(*Prepared and brought in by
Lord John Russell and Mr. Chancellor of the
Exchequer.*)

*Ordered, by The House of Commons, to be Printed,
16 July 1838.*

6 April 1838.—1 VICT.



A

B I L L

To carry into Effect, with certain Modifications, the Fourth Report of the Commissioners of Ecclesiastical Duties and Revenues.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~HER~~ ~~EA~~ ~~S~~ by an Act passed in the Seventh Year of the reign of his late Majesty, intituled, “An Act for carrying into Effect the Reports of the Commissioners appointed to consider the State of the Established Church in England and Wales, with reference to Ecclesiastical Duties and Revenues, so far as they relate to Episcopal Dioceses, Revenues and Patronage,” certain persons therein named are constituted and appointed to be one Body Politic and Corporate, by the name of “The Ecclesiastical Commissioners for England,” for the purposes set forth in the said Act: And whereas the Commissioners first mentioned in the said Act, in their Fourth Report mentioned in the said Act, and bearing date the Twenty-fourth day of June One thousand eight hundred and Thirty-six, made further recommendations touching the Constitution and Patronage of the Chapters of Cathedral and Collegiate Churches, and other things in the said Report specified, which recommendations were presented in the following propositions; (that is to say)

Preamble:
6 & 7 W. 4.
c. 77.

“ 1. That the Chapter of each Cathedral Church in England, except at Oxford, of the Collegiate Church of Westminster, and of your MAJESTY’S Royal Chapel of Windsor, consist hereafter of a Dean and Four Canons only:

“ 2. That the Chapter of Christchurch, in Oxford, consist hereafter of a Dean and Six Canons only :

“ 3. That until the existing Chapters shall be reduced to their proposed future number of members respectively, every Canonry or Prebend which shall become vacant be suppressed, except in the cases herein specified : 5

“ 4. That the first Canonry of Christchurch which shall become vacant, not being one of the two Canonries which are respectively annexed to the Regius Professorships in the University of Oxford, be permanently annexed to the Lady Margaret's Professorship of Divinity in that University ; that the two next Canonries of Christchurch which shall become vacant, not being either of the three already specified, be suppressed ; that the fourth vacancy be filled up ; that the two next Canonries which shall become vacant, except as aforesaid, be suppressed ; and that this rule be acted upon, until the number of Canons shall be reduced to six : 10 15

“ 5. That upon the Lady Margaret's Professor succeeding to the Canonry of Christchurch, the Canonry of Worcester, now annexed to his Professorship, become vacant and be suppressed : 20

“ 6. That the Rectory of the Parish of Saint Margaret, in the city of Westminster, and one of the Prebendal Houses belonging to the Chapter of Westminster, be permanently annexed to the Prebend in the Collegiate Church of Westminster, now held by Henry Hart Milman, Clerk ; and that the said Parish, and the Rector thereof, be subject to the Jurisdiction of the Bishop of London, and of the Archdeacon of Middlesex, and not to any other Ecclesiastical Jurisdiction ; and that the said Rectory be in the Patronage of Your Majesty : 25 30

“ 7. That the Share of the Revenues of the said Chapter, belonging to such Prebendary, be subdivided into twelve equal parts ; that seven of such parts be paid to the Prebendary, and that the other five parts be applied towards building a house of residence for the minister of a district church, in the said parish, and endowing the Rector of such church and the minister of Broadway Chapel, in the said parish ; in such proportions as the Commissioners, for carrying into effect the former recommendations, shall recommend, and your Majesty in Council shall approve : 35

“ 8. That

“ 8. That the Rectory of the parish of Saint John, in the same city, and one other of the Prebendal houses belonging to the said Chapter, be permanently annexed to the Prebend in the said Collegiate Church, lately held by George Holcombe, Doctor of Divinity; and that the said parish, and the Rector thereof, be subject to the jurisdiction of the Bishop of London, and of the Archdeacon of Middlesex, and not to any other Ecclesiastical Jurisdiction; and that the said Rectory be in the Patronage of Your Majesty :

“ 9. That the Share of the Revenues of the said Chapter, belonging to the said Prebend, be subdivided, and applied for the spiritual use of the said last-mentioned parish, in such proportions, and in such manner, as the said Commissioners shall recommend, and Your Majesty in Council shall approve :

“ 10. That in the Cathedral Churches of Canterbury, Durham, Ely, Exeter, Winchester and Worcester; in the Collegiate Church of Westminster; and in Your Majesty's Royal Chapel of Windsor, respectively, the Two first Canonries, or Prebends, which shall become vacant, be, except as herein specified, suppressed, and that the Third Vacancy be filled up, and that this rule be acted upon, until there shall be Four Canons only; that in the Cathedral Church of Canterbury the First Appointment, under such rule, be made by Your Majesty, the Second by the Archbishop of Canterbury, and that thereafter the said Archbishop appoint a Canon, upon the occurrence of every Fourth Vacancy which is to be filled up; that in the Cathedral Church of Durham, Henry Jenkyns, Clerk, Professor of Greek in the University of Durham, be appointed to the Canonry designed for him by the late Bishop of Durham, and now held by Richard Prosser, Doctor of Divinity, when it shall become vacant, although One of the Two preceding Vacancies may have been filled up; and that in the Collegiate Church of Westminster, when either of the Prebends attached to the Parishes of Saint Margaret and Saint John, respectively, shall become vacant, a Canon be appointed, although One of the Two preceding Vacancies may have been filled up :

“ 11. That in the Cathedral Churches of Bristol, Chester, Gloucester, Lichfield, Norwich, Peterborough, Rochester, Salisbury and Wells, the First and every alternate Canonry or Prebend which shall become vacant, be, except as herein specified, suppressed, and that every other Vacancy be filled up, and that this rule be acted upon, until there shall be Four Canons only, but that when a Vacancy shall occur in the

Prebend, in the Cathedral Church of Gloucester, which is attached to the Mastership of Pembroke College in Oxford, or in the Prebend in the Cathedral Church of Norwich, which is attached to the Mastership of Catherine Hall in Cambridge, or in either of the Prebends in the Cathedral Church of Rochester, which are respectively attached to the Provostship of Oriel College in Oxford, and to the Archdeaconry of Rochester, such Vacancy be filled up, although a new Canon may have been appointed in the case of the Vacancy immediately preceding :

“ 12. That in case any Canonry in either of the before-named Cathedral or Collegiate Churches, shall be hereafter permanently annexed to any Archdeaconry, or united with any parochial charge, and shall then become vacant before the Canonries in such Church shall be reduced to the proposed future Number, such Vacancy be filled up, notwithstanding the foregoing rules :

“ 13. That in all Cathedral and Collegiate Churches in which the Residentiaries have heretofore been erected by the Chapter from amongst the existing Prebendaries, all the Canonries be in future in the direct patronage of the Bishops of the respective Dioceses ; with the exception of the Three existing Canonries in the Cathedral Church of Saint Paul, in London ; and that these latter Canonries be in the direct patronage of Your Majesty :

“ 14. That in the said Chapter of Saint Paul, and in the Chapter of Lincoln, respectively, a Fourth Canonry be founded ; and that such new Canonries be in the patronage of the respective Bishops, and be disposed of by them as herein provided :

“ 15. That the Incomes, from whatever source arising, belonging to all suppressed residentiary Canonries or Prebends, as well those which are now vacant, as those which shall hereafter become vacant, be, except as herein specified, paid to the proper Officer to be appointed by the said Commissioners :

“ 16. That in the Cathedral Churches of Lichfield and Chester, the Incomes of the two suppressed residentiary Canonries and Prebends, respectively, fall into the divisible Revenues of the respective Chapters :

“ 17. That the separate Estates and other Endowments, of whatever kind, distinct from the Corporate Property of the respective

respective Chapters, belonging to Deanries, and residentiary Canonries or Prebends, as well those which are now vacant, as those which shall hereafter become vacant, be, except as herein specified, vested in the said Commissioners :

5 “ 18. That in the Cathedral Churches of York and Lichfield, such part of the separate Endowments of the Dean and Canons as may be determined upon be vested, as Vacancies occur, in the respective Chapters, and become part of the Corporate Property; and that the remainder of such Endowments be
10 vested in the said Commissioners :

15 “ 19. That each of the Deans, hereafter to be appointed, of the Cathedrals on the old foundation, except as herein specified, and of Your Majesty's Royal Chapel of Windsor, receive a Double Share of the divisible Revenues; and that, until the time when all the Dignities shall be held subject to these recommendations, just apportionments be made of the shares of such revenues, to be received by the new Members of each Chapter respectively :

20 “ 20. That, upon the first Vacancy in the Deanery of Windsor, the Living of Haseley be severed from the Deanery, and revert to the Patronage of the Dean and Chapter of Windsor :

25 “ 21. That the Chapter of Saint Asaph consist hereafter of a Dean and Two Canons, and that the Canons have the Cure of Souls within the parish; that the Deanery retain so much of its separate Endowment as shall remain, after competently providing thereout for the Vicarage of Henllan; and that the divisible Revenues be equally shared by the Two Canons :

30 “ 22. That the Chapter of Bangor consist hereafter of a Dean and Two Canons, the Canons performing the same duties, both in the Cathedral and in the parish of Bangor, as are now performed by the Priest-Vicars of that Cathedral: that the Endowments belonging to the Prebend of Penmynydd be annexed to the Deanery of Bangor; and that such portion of the Tithes now belonging to the said Deanery as shall be determined
35 upon, be applied to the augmentation of the Vicarages or Perpetual Curacies of the parishes in which they respectively accrue :

“ 23. That the Deanries of Saint Asaph and Bangor be united to the Archdeaconries of Saint Asaph and Bangor respectively; and that the Archdeaconry of Merioneth be endowed with the

property belonging to one of the Prebends in the Cathedral Church of Bangor, hereafter to be fixed upon :

“ 24. That the Chapter of Saint David’s consist hereafter of a Precentor and Two Canons, the Canons being charged with the Cure of Souls in the parish of Saint David’s; that the divisible Revenues be divided into Twenty-four parts; that Ten of such parts be assigned to the Precentor, and Five to each Canon; and that the remaining Four parts be paid, as an Endowment, to the Archdeacon of Cardigan : 5

“ 25. That the Chapter of Llandaff consist hereafter of an Archdeacon and Two Canons, the Canons being charged with the Cure of Souls, in the parishes of Llandaff and Whitchurch, respectively; and that, after paying to the Bishop of Llandaff One-seventh part of the divisible Revenues, the remainder be divided among the Three Members of the Chapter, the Archdeacon receiving One-half, and each of the Canons One quarter : 10 15

“ 26. That the Endowment belonging to one of the Prebends in the Collegiate Church of Brecon, hereafter to be fixed upon, be annexed to the Archdeaconry of Brecon : 20

“ 27. That all the remaining property belonging to the Canonries, Prebends, Dignities and Offices in the Cathedral Churches of Saint Asaph, Bangor, Saint David’s, Llandaff and in the Collegiate Church of Brecon, as they become vacant, be vested in the said Commissioners, and be applied by them to the improvement of poor Benefices in the Principality of Wales; unless the said Commissioners shall deem it fit to apply any part thereof to the better endowment of the College of Saint David’s at Lampeter, either absolutely or in exchange for any Benefices with Cure of Souls, which are now connected with that establishment, and that authority be given to them for that purpose : 25 30

“ 28. That the whole divisible Revenues of the Dean and Chapter of Ripon be divided into Six parts; and that the Dean receive Two parts, and the Four Canons One part each : 35

“ 29. That no new appointment be made to any of the Prebends, Dignities or Offices, not being Residentiary, in the several Cathedral and Collegiate Churches, except as herein specified; nor to the Deanery of Wolverhampton :

“ 30. That

“ 30. That all the Estates, Tithes and other Endowments, of whateber kind, belonging to the said Deanery, Prebends, Dignities and Offices, as well those which are now vacant as those which shall hereafter become vacant, be, except as herein specified, vested in the said Commissioners :

“ 31. That the Endowments, of whatever kind, belonging to the Collegiate Churches of Wolverhampton, Heytesbury and Middleham, be applied to the purpose af making a better provision for the Cure of Souls in the districts or places with which those Churches are respectively connected :

“ 32. That the Archdeacon of Nottingham be in future the Rector of the Collegiate Church of Southwell, and have under him an Assistant Minister, such Minister to have an income of not less than Three hundred Pounds per annum out of the revenues of the said Church, and Two Minor Canons, with an income of not less than One hundred and Fifty per annum each ; and that such Minor Canons also assist in the duties of the parish of Southwell :

“ 33. That so much of the property belonging to the Collegiate Church of Wimborne Minster, as shall, upon due inquiry, be found to remain, after adequately providing for the original purposes of the Foundation, be applied to the purpose of making a better provision for the Spiritual Care of the parish of Wimborne Minster :

“ 34. That provision be made for the due performance of such duties in the respective Cathedral and Collegiate Churches as may require to be so provided for, in consequence of the diminution in the number of Canons, while that change is in progress ; and that measures be taken by the said Commissioners for the disposal of such Residence-houses, in the precincts of the respective Cathedral and Collegiate Churches, as may no longer be required, and for the distribution and appropriation of those which may be retained :

“ 35. That power be given to unite such of the better endowed Canonries in the respective Chapters as may be deemed properly available for the purpose, with the parochial charge of populous districts, within the Dioceses in which such Churches shall be respectively situate :

“ 36. That such arrangements be made, with respect to the Deanery and Canonries in the Chapter of Durham, and their Revenues,

Revenues, as shall, upon due inquiry and consideration, be determined on, with a view to maintaining the University of Durham in a state of respectability and efficiency; due regard being had to the just claims of any existing Officer of the University:

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“ 37. That the Visitors of the respective Chapters do so alter, from time to time, the existing Statutes and Rules, as to make them consistent with the altered constitution and duties of the Chapters, respectively; but that no Statute made under this authority take effect until it shall have been submitted to the said Commissioners, and shall have received the sanction of Your Majesty in Council:

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“ 38. That the several Corporations or Colleges of Vicars Choral, Priest-Vicars or Minor Canons be dissolved, and that their endowments be dealt with in such manner as shall be determined on, so as to secure to each of the existing Members a provision at least equivalent to that which he now possesses; and that the Advowsons belonging to the said last-mentioned Corporations and Colleges be vested in the Chapters of their respective Churches:

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“ 39. That all the said Officers be hereafter styled Minor Canons; that their number, in each Cathedral or Collegiate Church, where it now exceeds Four, be gradually reduced to a number not exceeding Four, nor less than Two; and that the Stipend of each Minor Canon hereafter to be appointed be not less than One hundred and Fifty Pounds per annum:

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“ 40. That no Minor Canonry, in any Cathedral or Collegiate Church, be held together with any Benefice, unless such Benefice be within the limits of the city wherein such Church is situate:

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“ 41. That no Minor Canon be qualified to take any Benefice in the patronage of the Chapter beyond such limits, until he shall have actually served as Minor Canon for Five Years at the least; and that within One Year after the acceptance of any such Benefice he vacate his Minor Canonry:

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“ 42. That upon the Vacancy of any Benefice in the patronage of a Chapter, the Dean and Chapter present thereto either one of their own body or a Minor Canon, subject to such regulations as aforesaid; or a Spiritual Person, who shall have served for Five Years at the least as Master of the Grammar School, if

if

if any, attached to such Cathedral or Collegiate Church, who shall within One Year thereafter vacate his Mastership; and that if neither a Member of the Chapter, nor a Minor Canon, nor such Schoolmaster, be presented within Three calendar
 5 Months, the Bishop of the Diocese in which the Benefice is situate do, within the next Three calendar Months, collate thereto a Spiritual Person who shall have actually served within such Diocese, as Curate or Incumbent, for Five Years at the least; and that if no such Collation take place within such
 10 time, the Benefice lapse to the Archbishop of the Province :

“ 43. That the Patronage of all Benefices with Cure of Souls possessed by individual members of Chapters, in right of their separate estates, or by Prebendaries, Dignitaries or Officers, not residentiary, be transferred to the Bishops of the Dioceses
 15 in which the Benefices shall be respectively situate :

“ 44. That all Ecclesiastical Rectories without Cure of Souls, except such as are in the patronage of any College in either of the Universities, or of any private Patron, as well those which are now vacant as those which shall hereafter become vacant,
 20 be suppressed; and that the Endowments, of whatever kind, belonging thereto, be, except as herein specified, applied towards augmenting the existing provision for the Cure of Souls, due regard being had, in the first instance, to the wants of the Dioceses in which the said Rectories shall be respectively
 25 situate :

“ 45. That the Bishops of London and Lincoln be enabled to collate, to the new Canonry in the Chapter of Saint Paul and of Lincoln respectively, one of the Archdeacons of their respective Dioceses; subject to such regulations, before any
 30 Vacancy shall occur among the existing members of the said Chapters respectively, as may be determined on; and that upon the occurrence of any such Vacancy, provision be made for such Archdeacon, and if it be deemed fit, for one other of the Archdeacons in each of the said Dioceses, by the application
 35 of a portion of the income of such Canonry :

“ 46. That the Stall in the Cathedral Church of Rochester, which is now annexed to the Archdeaconry of Rochester, be
 annexed to the new Archdeaconry of Maidstone :

“ 47. That Archdeaconries, not otherwise competently endowed, be provided for respectively, by the annexation, where
 40 circumstances will permit, either of an entire Canonry, or of a Canonry charged with the payment of such portion of its income as shall be determined on, towards the provision for

another Archdeacon in the same Diocese, or of such last-mentioned portion of the income of a Canonry, or until such arrangement can be made, and, in cases where it may be necessary, by augmentation out of the Lands or Tithes vested in the said Commissioners, or out of the Revenues accruing from the suppression of Ecclesiastical Rectories without Cure of Souls or of Non-residentiary Prebends; provided that the annual income of each Archdeaconry, so augmented out of such Lands, Tithes or Revenues, do not exceed Two hundred Pounds:

" 48. That, with respect to Benefices which are annexed, by Act of Parliament or otherwise, to the Headships of Colleges in the Universities of Oxford and Cambridge, power be given to sanction, with the consent of the respective Colleges, the Sale of the Advowsons of such Benefices, and the investment of the proceeds in proper securities, the interest to be paid to the respective Heads of the Colleges for the time being; and that upon the completion of the respective arrangements, the present Incumbents be permitted, on resigning their respective Benefices, to receive the interest of the proceeds arising from such Sales respectively; and that power be given to the Colleges themselves to purchase such Advowsons:

" 49. That similar power be given with respect to the Benefice annexed to the Regius Professorship of Divinity in the University of Cambridge:

" 50. That wherever any Benefice with Cure of Souls is held together with any Sinecure Preferment, in the patronage of any College in either of the Universities, or of any private Patron, the Revenues of which latter Preferment form a part of the income of the present Incumbent of such Benefice, power be given, with the consents of the respective Patrons, permanently to annex such Preferment to such Benefice:

" 51. That in those Parishes in which both the Profits and the Spiritual Charge are divided between Two or more Incumbents, each having a mediety or portion of the Benefice, power be given, with the consent of the Patron, to sanction Plans for constituting any of such portions separate Benefices; or for consolidating Two or more of such portions into one Benefice to be held by One Incumbent; or for making such other arrangements as may promote the efficient discharge of Pastoral duties in such Parishes:

" 52. That with an especial view to the better care of populous Parishes, power be given to sanction the exchange of Advowsons,

sons, between Bishops, Colleges and other Public Bodies; and to sanction any arrangement for the purpose of improving the value, or making a better provision for the spiritual duties of ill-endowed parishes or districts, by altering the exercise of Patronage, or by apportioning the income of two Benefices belonging to the same Patron, or the income of one Benefice having more than one Church or Chapel, between the Incumbents or Ministers of such Benefices, Churches or Chapels; but that these latter powers be not exercised, with respect to Advowsons in Lay Patronage, without the consents of the respective Patrons, nor, in any case, without the consent of the Bishop of the Diocese:

“ 53. That none of these propositions, respecting the division of corporate property, the severance of separate property, or the exercise of Patronage in respect of separate property, affect any Dean, Archdeacon, Canon, Prebendary, Dignitary or Officer (except the said Henry Hart Milman), who shall be in possession, at the time of passing any Act of Parliament, for carrying these propositions into effect; but that every such Dean, Archdeacon, Canon, Prebendary, Dignitary and Officer, thereafter appointed, be subject to such regulations as shall be made in pursuance of such Act:

“ 54. That the said Commissioners from time to time, as they shall think necessary, cause to be amended the valuation of the Revenues of the Bishopricks, Cathedrals, Collegiate Churches, Ecclesiastical Corporations aggregate and sole, and Benefices in England and Wales, which was made and estimated, according to the Returns made to the Commissioners appointed by Your Majesty, ‘To inquire into the Revenues and Patronage of the Established Church in England and Wales,’ and specified in the Report made by the said last-mentioned Commissioners, bearing date the sixteenth day of June one thousand eight hundred and thirty-five; and that when the said amended Valuation shall be completed, the same be printed by Your Majesty’s Printer, and be received as evidence of the value of every Dignity, Office or Benefice therein mentioned:

“ 55. That all monies received by the Treasurer of the Governors of the Bounty of Queen ANNÆ, under the Act passed in the last Session of Parliament relating to Preferments without Cure of Souls, be forthwith paid over to the proper officer to be appointed by the said Commissioners for carrying into effect

effect the former recommendations ; and that no further sums be received by the said Treasurer under the said Act :

“ 56. That the property and revenues to be vested in and paid to the said Commissioners under these propositions, be, after a due consideration of the wants and circumstances of the places in which they accrue, applied, except as herein specified, to the purpose of making additional provision for the Cure of Souls, in parishes where such assistance is most required ; in such manner as shall be most conducive to the efficiency of the Established Church :

“ 57. That the said Commissioners be empowered to inquire into the state of those Hospitals, which were returned as Promotions Spiritual, in the reign of King HENRY the Eighth ; and that in those cases, in which they shall find the Endowments of such Hospitals to be capable, after satisfying the objects of the Founder's Bounty, of affording a better provision for the Cure of Souls in the parishes with which they are connected, the Commissioners do consider and report to Your Majesty in Council, and that Your Majesty in Council be empowered to sanction measures for effecting such Provision :

“ 58. That no person be hereafter capable of receiving the appointment of Dean, Precentor, Archdeacon or Canon, until he shall have been Six Years complete in Priest's Orders : ”

And whereas the Commissioners first mentioned in the said Act had carefully reviewed such of the recommendations contained in their Reports as have not yet received the sanction of the Legislature, and having attentively considered the various observations upon them which had been communicated to them from various quarters, were preparing a further or Fifth Report to his late Majesty King WILLIAM the Fourth, of blessed memory :

And whereas, by reason of the demise of the Crown, the Commission by which the said Commissioners were appointed to consider the state of the Established Church in England and Wales, with reference to Ecclesiastical Duties and Revenues, came to an end and expired :

And whereas it appears that the said last-mentioned Commissioners had taken into their consideration, with a view to their said intended Fifth Report, certain alterations in the propositions appended to their Fourth Report, to the effect hereinafter contained ; and it is expedient that the said propositions should be adopted in their amended form ;

BC

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows ; (that is to say)

5 **THE CHAPTER** of each Cathedral Church in England, except Christchurch, in Oxford,—of the Collegiate Church of Saint Peter, Westminster,—and of Her Majesty's Royal Free Chapel of Saint George, in Windsor, shall consist hereafter of a Dean and Four Canons only.

1.
Constitution
of Chapters.

0 **THE CHAPTER** of Christchurch, in Oxford, shall consist hereafter of a Dean and Six Canons only.

2.
Constitution
of Chapter of
Christchurch.

15 **IN** the said Chapter of Christchurch, the Canonry which shall first become vacant, not being One of the Two Canonries which are respectively annexed to Regius Professorships in the University of Oxford, shall be permanently annexed to the Lady Margaret's Professorship of Divinity in that University ; and the Two next Canonries which shall become vacant, not being either of the Three Canonries already specified, shall be suppressed.

3.
Canonries to
be suppressed
at Christ-
church.

20 **UPON** the Lady Margaret's Professor succeeding to such Canonry of Christchurch, the Canonry of Worcester, now annexed to his Professorship, shall become vacant.

4.
Vacancy of
Canonry of
Worcester.

25 **THE RECTORY** of the Parish of Saint Margaret, in the City of Westminster, and one of the Prebendal Houses belonging to the Chapter of the said Collegiate Church of Saint Peter, Westminster, shall be permanently annexed to the Prebend in the said Collegiate Church now held by Henry Hart Milman, Clerk, Master of Arts ; and such House shall be the House of Residence belonging to the Benefice ; and the said Rectory shall be in the Patronage of Her Majesty.

5.
Annexation of
St. Margaret's
Rectory to a
Prebend of
St. Peter's,
Westminster.

35 **THE SHARE** of the Revenues of the said Chapter, which would be payable to the Holder of such Prebend, shall be subdivided into Twelve equal Parts ; Seven of such Parts shall be paid to the Prebendary or Canon, and the other Five Parts shall be applied towards providing a House or Houses of Residence for the Minister or Ministers of One or more District Churches in the said Parish, and for endowing such Minister or Ministers ; and the Minister of Broadway Chapel in the said Parish, in such Proportions as the Ecclesiastical Commissioners for England shall recommend, and Her Majesty in Council shall approve.

6.
Division of
part of the
Revenues of
the Chapter of
St. Peter's,
Westminster.

7.
St. John's
Rectory an-
nexed to
another Pre-
bend.

THE RECTORY of the Parish of Saint John, in the same City, shall be permanently annexed to the Prebend in the said last-mentioned Collegiate Church, now held by John Jennings, Clerk, Master of Arts; and the same Rectory shall be in the Patronage of Her Majesty.

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8.
Division of
another part
of the Reve-
nues of the
Chapel of
St. Peter's,
Westminster.

THE SHARE of the Revenues of the said Chapter, which would be payable to the Holder of such last-mentioned Prebend, shall be subdivided into Twelve equal Parts; Seven of such Parts shall be paid to the Prebendary or Canon, and the other Five Parts shall be applied towards providing a House or Houses of Residence for the Minister or Ministers of One or more District Churches in the said Parish of Saint John, and for endowing such Minister or Ministers in such Proportions as the Ecclesiastical Commissioners for England shall recommend, and Her Majesty in Council shall approve.

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9.
Parishes of
St. Margaret
and St. John
annexed to the
Archdeaconry
of Middlesex.

THE SAID Parishes of Saint Margaret and Saint John shall become a Part of the Province of Canterbury, of the Diocese of London, and of the Archdeaconry of Middlesex; and the said Parishes, and the Rectors and other Ministers and Officers thereof respectively shall be subject in Ecclesiastical matters to the Jurisdiction of the Archdeacon of Middlesex, the Bishop of London, and the Archbishop of Canterbury respectively, in the same manner as other Parishes in the said Archdeaconry, Diocese, and Province are respectively subject thereto; and all other Ecclesiastical Jurisdiction hitherto exercised in the said Parishes, or either of them, shall entirely cease and determine.

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10.
Prebends and
Canonries to
be suppressed
at Canterbury.

IN the Cathedral Church of Canterbury, the Prebend which is now vacant, and the Prebend or Canonry which shall next become vacant, shall be suppressed; that the then next Vacancy shall be filled up; the Two Prebends or Canonries which shall next thereafter become vacant shall be suppressed, and the then next succeeding Vacancy shall be filled up; and so on, in like manner, until there shall be Four Canons only: the First Appointment under this Rule shall be made by Her Majesty, and the Second by the Archbishop of Canterbury, and thereafter the said Archbishop shall appoint a Canon upon the occurrence of every Fourth Vacancy which is to be filled up.

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11.
Prebends and
Canonries to
be suppressed
at Durham,
Ely, Exeter,
Winchester
and Worcester.

IN the Cathedral Churches of Durham, Ely, Exeter, Winchester, and Worcester respectively, the Two Prebends or Canonries which shall first become vacant shall be suppressed, and the next Vacancy which shall occur, shall be filled up; and this Rule shall be acted upon until there shall be Four Canons only; but

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but in the Cathedral Church of Durham, notwithstanding this Rule as to the Order in which the Number of Canons is to be reduced, Henry Jenkyns, Clerk, Professor of Greek in the University of Durham, shall be appointed to the Prebend or Canonry designed for him by the late William Bishop of Durham, and now held by Richard Prosser, Doctor of Divinity, when it shall become vacant; and whenever a Vacancy shall occur in the Prebend or Canonry, which is by Act of Parliament annexed for the future to the Archdeacons of Durham, such Vacancy shall be filled up.

IN the said Collegiate Church of Saint Peter, Westminster, the Two Prebends which are now vacant shall be suppressed; the next Vacancy which shall occur shall be filled up, the Two Prebends or Canonries which shall then next become vacant shall be suppressed, and the then next succeeding Vacancy shall be filled up; and so on, in like manner, until there shall be Four Canons only.

12.
Prebends and
Canonries to
be suppressed
at Westminster.

IN Her Majesty's said Royal Free Chapel of Saint George in Windsor, the Canonry which is now vacant, and the Canonry which shall next become vacant, shall be suppressed; the then next Vacancy shall be filled up; the Two Canonries which shall next thereafter become vacant shall be suppressed, and the then next succeeding Vacancy shall be filled up; and so on, in like manner, until there shall be Four Canons only.

13.
Canonries to
be suppressed
at Windsor.

IN the Cathedral Churches of Bristol, Chester, Gloucester, Norwich, Rochester, Salisbury, Wells and Ripon, the Canonry or Residentiary Prebend which shall first become vacant shall be suppressed; the next Vacancy shall be filled up, and the Canonry or Residentiary Prebend which shall then next become vacant shall be suppressed; and the Sub-deanery of Ripon shall be also suppressed when it shall become vacant.

14.
Canonries and
Prebends to
be suppressed
at Bristol,
Chester,
Gloucester,
Norwich,
Salisbury,
Wells and
Ripon.

IN the Cathedral Church of Peterborough, the Prebend which is now vacant shall be suppressed; the next Vacancy which shall occur shall be filled up; and the Prebend or Canonry which shall then next become vacant shall be suppressed.

15.
Prebends and
Canonries to
be suppressed
at Peter-
borough.

IN the Cathedral Church of Hereford the present Lecturer shall succeed to the first vacant Canonry or Residentiary Prebend, unless it happen to be the Bishop's Prebend, and in that case to the next vacant Canonry or Residentiary Prebend; and the first Canonry or Residentiary Prebend which shall afterwards become vacant shall be suppressed.

16.
Prebends and
Canonries to
be suppressed
at Hereford.

17.
Residentiary-
ships to be
suppressed at
Lichfield.

IN the Cathedral Church of Lichfield, the Residentiaryship now held by the Rector of Saint Philip's Church in Birmingham shall be suppressed upon the first Vacancy thereof, and the first of the other Residentiaryships which shall become vacant shall be also suppressed.

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18.
Explanation of
the Rules for
suppression of
Canonries.

THE RULE herein contained respecting the Order in which the Number of Canonries is in each case to be reduced, shall not affect or apply to either of the Prebends or Canonries in the Collegiate Church of Saint Peter, Westminster, to which the Rectories of Saint Margaret and Saint John, Westminster, are to be respectively annexed ; or the Prebend or Canonry in the Cathedral Church of Gloucester, which is annexed to the Mastership of Pembroke College in Oxford ; or either of the Prebends or Canonries in the Cathedral Church of Rochester, which are respectively annexed to the Provostship of Oriel College in Oxford, and to the Archdeaconry of Rochester ; or the Prebend or Canonry in the Cathedral Church of Norwich, which is annexed to the Mastership of Catherine-hall in Cambridge ; or any Canonry in any Cathedral or Collegiate Church which shall hereafter be permanently annexed to any Archdeaconry, or united with any Parochial Charge.

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19.
Deaneries to
be in the Pa-
tronage of Her
Majesty.

IN all Cathedral and Collegiate Churches in which the Deans have heretofore been elected by the Chapter, all the Deaneries shall be in future in the direct Patronage of Her Majesty ; and the Three existing Canonries in the Cathedral Church of Saint Paul in London shall be also in the direct Patronage of Her Majesty.

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20.
Canonries to
be in the Pa-
tronage of the
Bishops, sub-
ject to existing
Interests.

IN the Cathedral Church of York, so soon as a Vacancy shall occur in the Deanery, and in the Cathedral Churches of Chichester, Exeter, Salisbury and Wells, so soon as every person who was a Member of the Chapter on the Thirteenth day of August One thousand eight hundred and Thirty-six shall cease to be a Member, or (if it shall first happen) so soon as there shall be a failure of persons eligible to Canonries or Residentiaryships in the said respective Chapters, according to the laws and customs then in force, all the Canonries shall be in the direct Patronage of the Bishops of the respective Sees ; and the same Rule shall be in force in the Cathedral Church of Hereford so soon as either of the said events shall happen, and the person last elected Lecturer in the said Chapter shall have succeeded to a Canonry.

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21.
Canonries of
Ripon to be in
the Patronage
of the Bishop
of Ripon.

IN the Cathedral Church of Ripon the Canons shall be appointed by the Bishop of Ripon for the time being, and not by

by

by the Archbishop of York, and without any Nomination by the Dean and Chapter; and the Bishop of Ripon for the time being shall be Visitor of the said Dean and Chapter, instead of the said Archbishop.

5 IN the Cathedral Churches of Saint Paul in London, and of Lincoln, respectively, a Fourth Canonry shall be founded; and such new Canonries shall be annexed to Archdeaconries in the Dioceses of London and Lincoln respectively, as hereinafter provided.

IN all Chapters wherein there exist any Statutes or Customs for assigning to the Dean, or to the Canons or Prebendaries, certain Houses, Lands, Tithes and Hereditaments, in addition to their Shares of the Corporate Revenues, or for appropriating separately to any of them, during their Incumbency, the proceeds of certain Houses, Lands, Tithes and Hereditaments, part of the Corporate Property of the Chapter, all such Statutes and Customs shall be, as to all future Deans and Canons, repealed and annulled, excepting as to any small portion of Land adjacent to any Residentiary House, and enjoyed by the Canon in possession of such House for his domestic accommodation.

25 THE INCOMES, from whatever source arising, belonging to all suppressed Canonries or Residentiary Prebends, except as herein specified, immediately upon such suppression, shall be paid and continue thereafter to be paid to the Ecclesiastical Commissioners for England.

24. Incomes of some suppressed Canonries and Prebends to be paid to the Ecclesiastical Commission-

30	<p>IN the Cathedral Churches of Chester, Lichfield and Ripon, the Shares of the Corporate Revenues belonging to the suppressed Canonries and Residentiary Prebends respectively shall fall into the divisible Corporate Revenues of the respective Chapters.</p>	<p>25. In Chester, Lichfield and Ripon, Incomes of suppressed Canonries and Prebends to make part of</p>
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35 **SUBJECT** to the reservation of existing rights hereinafter specified, all Lands, Tithes or other Endowments belonging to or now or heretofore possessed or enjoyed by Deans and Canons or Residentiary Prebendaries, separately from and in addition to their Shares of the Corporate Revenues of the respective Chapters, excepting any such small portion of Land so enjoyed as aforesaid, shall be vested in the Ecclesiastical Commissioners for England.

SUCH part of the separate Endowments of the Dean and
Canons of the Cathedral Churches of York and Lichfield, as
286. c may **Part of sepa-
rate Estates
of Dean and
Canons of
York and Lich-**

coin to be the property of the Chapter.

28.

Deans on the old foundation of Ripon and St. George to have a Double Share of Corporate Revenues.

may be determined upon, shall be vested in the respective Chapters, and become part of the Corporate Property.

EACH of the Deans, hereafter to be appointed, of the Cathedral Churches on the old foundation, the Dean of Ripon and the Dean of Her Majesty's Royal Free Chapel of Saint George in Windsor shall, so soon as may be consistent with existing rights, receive a Double Share of the divisible Corporate Revenues; and until the time when the several Chapters shall be entirely composed of Deans and Canons appointed subject to these recommendations, such Revenues shall be so apportioned as to afford just Shares thereof to the new Members of each Chapter respectively. 5 10

29.

Haseley Rectory to be severed from the Deanery of Windsor.

UPON the first Vacancy in the Deanery of Windsor, the Rectory of Haseley shall be severed from the Deanery, and shall revert to the Patronage of the Dean and Chapter of Windsor. 15

30.

Constitution of Chapter of St. Asaph.

IN the Cathedral Church of Saint Asaph the Chapter shall consist hereafter of a Dean and Two Canons, and the said Canons shall have the Cure of Souls within the Parish of Saint Asaph; and upon the first Vacancy in the Deanery of the said Church, so much of the separate Estates and Endowments thereof as shall be determined on shall be applied to make a competent provision for the Vicarage of Henllan; the remainder thereof shall continue annexed to the Deanery; and the whole of the divisible Corporate Revenues of the Chapter shall be equally shared by the Two Canons. 20 25

31.

Constitution of Chapter of Bangor.

IN the Cathedral Church of Bangor the Chapter shall consist hereafter of a Dean and Two Canons, and the Canons shall perform the same duties, both in the said Church and in the parish of Bangor, as are now performed by the Priest Vicars of the said Church; the Endowments belonging to the Prebend of Penmynydd shall be annexed to the Deanery of Bangor; and such portion of the Tithes now belonging to the said Deanery, as shall be determined upon, shall be applied to the Augmentation of the Vicarages or Perpetual Curacies of Parishes in which they respectively accrue; and the remainder thereof shall continue annexed to the Deanery. 30 35

32.

Deaneries and Archdeaconries of St. Asaph and Bangor united; Archdeaconry of Merioneth to be endowed with a Prebend.

THE DEANERIES of Saint Asaph and Bangor shall be united to the Archdeaconries of Saint Asaph and Bangor respectively; and the Archdeaconry of Merioneth shall be endowed with the property belonging to one of the Prebends in the Cathedral Church of Bangor, hereafter to be fixed upon.

IN

IN the Cathedral Church of Saint David the Chapter shall consist hereafter of a Precentor and Two Canons, and the Canons shall be charged with the Cure of Souls in the Parish of Saint David; the divisible Corporate Revenues shall be divided into Twenty-four Parts; Ten of such Parts shall be assigned to the Precentor, and Five to each Canon; and the remaining Four Parts shall be paid, as an Endowment, to the Archdeacon of Cardigan.

33.
Constitution
of Chapter
of St. David's.

IN the Cathedral Church of Llandaff the Chapter shall consist hereafter of an Archdeacon and Two Canons, and the Canons be charged with the Cure of Souls in the Parishes of Llandaff and Whitchurch respectively; and after paying to the Bishop of Llandaff One-seventh part (being his present share) of the divisible Corporate Revenues, the remainder thereof shall be divided among the Three Members of the Chapter, in the proportions of One-half to the Archdeacon, and One quarter to each of the Canons.

34.
Constitution
of Chapter
of Llandaff.

UNTIL the Chapters of the several Cathedral and Collegiate Churches shall be reduced to their proposed future number of Members respectively, every Canonry or Residentiary Prebend which shall become vacant shall be suppressed, except as hereinbefore specified.

35.
Suppression of
Canonries and
Prebends.

THE WHOLE of the Endowments belonging to one of the Prebends in the Collegiate Church of Brecon, hereafter to be fixed upon shall be, upon the Vacancy of such Prebend, annexed to the Archdeaconry of Brecon.

36.
Archdeaconry
of Brecon to be
endowed with
a Prebend.

ALL the remaining property of what kind soever belonging to the Canonries, Prebends, Dignities and Offices in the Cathedral Churches of Saint Asaph, Bangor, Saint David and Llandaff, and in the Collegiate Church of Brecon, as well those which are now vacant as those which shall hereafter become vacant, shall be vested in the Ecclesiastical Commissioners for England, to be from time to time applied to the improvement of poor Benefices in the Principality of Wales; unless it be deemed fit to transfer any part thereof to the Saint David's College at Lampeter, in exchange for any Benefices with Cure of Souls which are now connected with that Establishment; and power shall be given to make such transfer.

37.
Property of
certain sup-
pressed Digni-
ties to be
vested in the
Ecclesiastical
Commis-
sioners.

NO new appointment shall be made to the Deanery of Wolverhampton, nor to any Prebend, Dignity or Office, not Residentiary, in any Cathedral or Collegiate Church.

38.
Abolition of
Non-residen-
tiary Dignities
in Churches,

39.
Estates of
Non-residen-
tiary Dignities
vested in
Ecclesiastical
Commis-
sioners.

SUBJECT to the reservation of existing rights herein-
after specified, all the Lands, Tithes and other Endowments, of
whatever kind, belonging or attached to the said last-mentioned
Deanery, Prebends, Dignities and Offices, as well those which
are now vacant as those which shall hereafter become vacant, 5
shall be, except as herein specified, vested in the Ecclesiastical
Commissioners for England.

40.
St. Philip's
Rectory to be
endowed from
the Prebend
of Sawley.

SO much of the Lands or Tithes belonging or attached
to the Prebend of Sawley, in the Cathedral Church of Lich- 10
field, as shall be determined on, shall be vested in and enjoyed
by the Rector of Saint Philip's Church in Birmingham, and his
successors, Rectors thereof, for ever.

41.
Endowments
of Wolver-
hampton,
Heytesbury
and Middle-
ham Churches
applied to
Cure of Souls.

THE ENDOWMENTS, of whatever kind, belonging to
the Collegiate Churches of Wolverhampton, Heytesbury and 15
Middleham, shall be applied to the purpose of making a better
provision for the Cure of Souls in the districts or places with
which those Churches are respectively connected.

42.
Constitution
of Collegiate
Church of
Southwell.

IN the Collegiate Church of Southwell, the Prebendaries
shall be, as Vacancies occur, reduced to One ; upon the death or
removal of the last of the existing Prebendaries, the Archdeacon 20
of Nottingham shall become the sole Canon, and also Rector of
the Parish of Southwell, and the Rectory of Southwell shall be
annexed to the Archdeaconry of Nottingham ; the said Rector
shall be empowered and required to appoint Two Assistant
Ministers, the first of such Ministers shall be paid an annual 25
Income of Three hundred Pounds, and the second an annual
Income of Two hundred Pounds ; the Vicar of Southwell,
holding the Vicarage at the time of such annexation as afore-
said, shall become the first of such Assistant Ministers ; after
such portion of the divisible Revenues of the said Collegiate 30
Church of Southwell shall have been applied, as shall be
necessary for carrying fully into effect the foregoing objects,
the remainder thereof shall be paid to the Ecclesiastical Commis-
sioners for England ; and all Vicars Choral hereafter to be
appointed in that Church shall hold their offices subject to these 35
regulations.

43.
Endowments
of Wimborne
Minster
applied to
care of the
Parish.

SO much of the property belonging to the Collegiate
Church of Wimborne Minster, as shall upon due inquiry be
found legally applicable to that object, shall be applied to the
purpose of making a better provision for the spiritual care of
the Parish of Wimborne Minster.

PROVISION

PROVISION shall be made, out of the Fund arising from the suppressed Canonries and residentiary Prebends in the respective Cathedral and Collegiate Churches, for the performance of such duties therein as may require to be so provided for, in consequence of the diminution in the number of Canons, while that change is in progress.

44.
Provision for performance of duties of suppressed Dignities.

MEASURES shall be taken by the Ecclesiastical Commissioners for England for the disposal of such Residence Houses in the Precincts of the respective Cathedral and Collegiate Churches as may no longer be required, and for the distribution and appropriation of those which may be retained; and for these purposes plans shall be from time to time prepared by each Chapter, and, when approved by the Visitor, shall be laid before the said Commissioners for their confirmation.

45.
Disposal of Residence Houses not wanted.

POWER shall be given to unite such of the better endowed Canonries which will remain in the Chapters of the several Cathedral and Collegiate Churches, as may be deemed properly available for the purpose, with the parochial charge of populous districts within the Dioceses in which such Churches shall be respectively situate.

46.
Canonries may be united with parochial charges.

SUCH arrangements shall be made with respect to the Deanery and Canonries in the Cathedral Church of Durham, and their Revenues, as, upon due inquiry and consideration of the Act of Parliament for founding the University of Durham, and of the engagements subsequently entered into by the late Bishop and the Dean and Chapter of Durham, shall be determined on, with a view to maintaining the said University in a state of respectability and efficiency, due regard being had to the just claims of any existing Officer of the said University.

47.
University of Durham to be maintained.

THE DEANS and Chapters of the several Cathedral and Collegiate Churches shall from time to time, upon being required by their Visitors, propose to them such alterations in their existing Statutes and Rules as shall make them consistent with the altered constitution and duties of the Chapters respectively; and in default of their complying with such requisition, the Visitors shall be in all cases at liberty to make such alterations; but no such alteration shall take effect until it shall have been submitted to the Ecclesiastical Commissioners for England, and shall have received the sanction of Her Majesty in Council, which sanction shall not be given to any alteration made by a Visitor alone, unless the said Commissioners shall have communicated a draft of the proposed alteration to the Chapter to

48.
Deans and Chapters or Visitors in their default, to propose alterations in their Statutes.

be affected thereby, and shall have laid before Her Majesty in Council such remarks as may within Three Months have been made thereon by such Chapter.

49.
Corporations
and Colleges
of Vicars
Choral, Priest-
Vicars and
Minor Canons
dissolved.

THE SEVERAL Corporations or Colleges of Vicars Choral, Priest-Vicars or Minor Canons, shall be dissolved at such times respectively, and their endowments shall be dealt with in such manner as shall be determined on with a view to the efficient performance of the Cathedral Service, and to the improvement of the annual incomes of the existing Members, so as to secure to each of them a provision at least equivalent to that which he now possesses; and saving also the present rights of any Lay Vicar who may be a member of any such Corporation; and plans for carrying this alteration into effect, and for the efficient performance of the Choral Service for the future, shall be prepared by the Deans and Chapters of the respective Cathedral Churches in which such Corporations or Colleges exist, and, after approval by their Visitors, shall be laid before the Ecclesiastical Commissioners for England; and the Benefices belonging to any of the said last-mentioned Corporations and Colleges shall be, upon the dissolution of such Corporations or Colleges respectively, vested in the Chapters of their respective Churches, to be by them conferred in the first instance upon Minor Canons, subject to the regulations and restrictions hereinafter specified.

50.
Appointment
and Salary of
Vicars Choral,
Priest Vicars
and Minor
Canons; all to
be called
Minor Canons.

ALL persons holding the Office of Vicar Choral, Priest-Vicar or Minor Canon in any Cathedral or Collegiate Church, shall be hereafter styled Minor Canons; and the right of appointing them shall be in all cases vested in the respective Chapters; their number in each Cathedral or Collegiate Church shall be not more than Six, nor less than Two; and the stipend of each Minor Canon hereafter to be appointed shall be not less than One hundred and Fifty Pounds per annum.

51.
Minor Canons
not to hold
any Benefice
beyond the
liberties of the
City.

NO Minor Canon hereafter to be appointed in any Cathedral or Collegiate Church shall be allowed to take and hold together with his Minor Canonry any Benefice, unless such Benefice be within the limits of the city wherein such Church is situate, or within the liberties thereof.

52.
Minor Canon
not to be
beneficed
until after
Five Years.

NO Minor Canon hereafter to be appointed shall be qualified to take any Benefice in the patronage of a Chapter beyond such limits and liberties, until he shall have actually served as Minor Canon for Five Years at the least; and within One Year after the acceptance of any such Benefice by any Minor Canon, he shall vacate his Minor Canonry.

THE

THE ENACTMENTS respecting Minor Canons shall not affect the Chaplains of Christchurch in Oxford.

53.
Exception in
favour of
Chaplains of
Christchurch,
Oxford.

SUBJECT to the reservation of existing rights herein-
after specified, upon the vacancy of any Benefice in the Patron-
age of the Chapter of any Cathedral or Collegiate Church, the
Dean and Chapter shall present thereto either one of their own
body, or a Minor Canon, subject to such regulations as aforesaid;
or a spiritual person who shall have served, for Five Years at
least, as Master of the Grammar School, if any, attached to such
Cathedral or Collegiate Church, or who, in respect to the
Patronage of the Chapter of Durham, shall have served for the
like term as a Professor, Reader, Lecturer, or Tutor in the
University of Durham, or who shall have been educated at that
University, and shall be a Licentiate or Graduate in Theology
therein; and every such Schoolmaster, Professor, Reader,
Lecturer or Tutor so presented shall within One Year there-
after vacate his office; and if neither a Member of the Chapter,
nor a Minor Canon, nor such Schoolmaster, Professor, Reader,
Lecturer, Tutor, Licentiate or Graduate as aforesaid, shall
be presented within Three calendar Months from the time of
the vacancy, the Bishop of the Diocese in which the Benefice
is situate may, within the next Three calendar Months, collate
or license thereto a spiritual person who shall have actually
served within such Diocese, as Curate or Incumbent, for Five
Years at the least; and if no such Collation or License shall
be granted within such time, the right of presentation for that
turn shall lapse to the Archbishop of the province; but nothing
herein contained shall affect the Patronage possessed by the said
Chapter of Christchurch.

54.
Exercise of
Patronage of
Deans and
Chapters.

SUBJECT to the like reservation of existing rights, the
Patronage of all Benefices, except Rectories without Cure of
Souls, possessed by Deans and other individual Members of
Chapters in right of any separate estates held by them as such
Members, or possessed by Prebendaries, Dignitaries or Officers
not residentiary as such, shall be transferred to the Bishops of the
Dioceses in which the Benefices shall be respectively situate;
except in the case of the Collegiate Church of Southwell, and
the Benefices in the Patronage of the Prebendaries thereof shall
be transferred, as the Prebends fall in respectively, partly to
the Bishop of Ripon, and partly to the Bishop of Manchester,
when the latter See shall have been created, in such proportion
as shall be determined on.

55.
Separate Pa-
tronage of
Deans and
other Mem-
bers of Chap-
ters to be
vested in the
Bishops.

ALL Ecclesiastical Rectories without Cure of Souls, in
the Patronage of the Crown, or of any Ecclesiastical Corpora-
tion

56.
Suppression of
Ecclesiastical
Rectories
without Cure
of Souls.

tion aggregate or sole, where there shall be a Vicar endowed, or a Perpetual Curate, as well those which are now vacant as those which shall hereafter become vacant, shall be suppressed ; and thereupon the Lands, Tithes and other Endowments, of whatever kind, belonging thereto respectively, shall be vested in the Ecclesiastical Commissioners for England, and all Patronage belonging to the Incumbents of such Rectories respectively shall be transferred to the respective Patrons thereof.

57.
Bishops of
London and
Lincoln may
appoint an
Archdeacon
to the new
Canonry.

THE BISHOPS of London and Lincoln shall be empowered to appoint One of the Archdeacons of their respective Dioceses to succeed to the new Canonry in the Chapter of Saint Paul's and of Lincoln respectively, and such Canonries shall be annexed to such Archdeaconries respectively, subject to such regulations, before any Vacancy shall occur among the existing Members of the said Chapters respectively, as may be determined on ; and upon the occurrence of any such Vacancy, provision shall be made for such Archdeacon, and, if it be deemed fit, for one other of the Archdeacons in each of the said Dioceses, by the application of a portion of the Income of such Canonry.

58.
Prebend of
Rochester an-
nexed to the
Archdeaconry
of Maidstone.

THE PREBEND or Canonry in the Cathedral Church of Rochester, which is now annexed to the Archdeaconry of Rochester, shall be annexed to the new Archdeaconry of Maidstone.

59.
Archdeacon-
ries to be en-
dowed with
Canonries if
not compe-
tently en-
dowed.

ARCHDEACONRIES not otherwise competently endowed shall be provided for respectively by the annexation, wherever it may be practicable, either of an entire Canonry, or of a Canonry charged with the payment of such portion of its income as shall be determined on towards providing for another Archdeacon in the same Diocese, or of such last-mentioned portion of the income of a Canonry, or until such arrangement can be made, and in cases where it may be necessary by augmentation, out of the Fund in the hands of the Ecclesiastical Commissioners for England, accruing from the suppression of Cathedral Dignities or Offices, or of Sinecure Rectories; provided that no such augmentation be made out of the said Fund, as shall raise the annual income of any Archdeaconry so augmented to an amount exceeding Two hundred Pounds.

60.
Deans, Pre-
centors, Arch-
deacons and
Canons to
have been Six
Years in
Priest's
Orders.

NO person hereafter shall be capable of receiving the appointment of Dean, Precentor, Archdeacon or Canon, until he shall have been Six Years complete in Priest's Orders.

WITH

WITH respect to Benefices which are annexed by Act of Parliament or otherwise to the Headships of Colleges in the Universities of Oxford and Cambridge, power shall be given to sanction, with the consent of the respective Colleges, the Sale of the Advowsons of such Benefices, and the investment of the proceeds in proper securities, and the payment of the interest thereof to the respective Heads of the Colleges for the time being; and upon the completion of the respective arrangements, the present Incumbents shall be permitted, on resigning their respective Benefices, to receive the interest of the proceeds arising from such Sales respectively, and power shall be given to the Colleges themselves to purchase such Advowsons.

61.
Advowsons of Benefices annexed to Headships of Colleges may be sold.

POWER shall be given to sanction, with the consent of the University of Cambridge, the Sale of the Advowson of the Benefice annexed to the Regius Professorship of Divinity in that University, and the investment of the proceeds of such Sale in proper Securities, and the payment of the interest thereof to the Regius Professor of Divinity for the time being; and, upon the completion of this arrangement, the present Incumbent shall be permitted, on resigning the said Benefice, to receive such interest.

62.
Advowson of Benefice annexed to the Professorship of Divinity in Cambridge may be sold.

WHEREVER any Benefice with Cure of Souls is held together with any Sinecure Preferment in the patronage of any College in either of the Universities, or of any private Patron, the Revenues of which latter Preferment form a part of the income of the present Incumbent of such Benefice, power shall be given, with the consents of the respective Patrons, permanently to annex such Preferment to such Benefice.

63.
Sinecure Preferments may be annexed to Benefices with Cure of Souls, with consent of Patrons.

IN all those Parishes in which both the profits and the Spiritual Charge are divided between Two or more Incumbents, each having a mediety or portion of the Benefice, power shall be given to sanction any plan laid before the Ecclesiastical Commissioners for England by the Bishop of the Diocese, with the consent of the Patron or Patrons, for constituting any of such portions separate Benefices, or for consolidating Two or more of such portions into One Benefice to be held by One Incumbent, or for making such other arrangements as may promote the efficient discharge of Pastoral Duties in such Parishes.

64.
Benefices may be divided or consolidated, with consent of Patrons.

WITH an especial view to the better care of populous Parishes, power shall be given to sanction any arrangement for the purpose of improving the value or making a better provision for the Spiritual Duties of ill-endowed Parishes or Districts, by

65.
Provisions for securing the better performance of Spiritual Duties in ill-endowed Parishes.

means of such exchange of Advowsons, or of such other alterations in the exercise of Patronage, as may be agreed upon by Patrons, with the consent of the Bishop in every such case; and where a Bishop is himself one of the Patrons, with the consent of the Archbishop.

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66.
Income of Benefices belonging to one Patron may be apportioned in certain cases.

POWER shall be also given to sanction any apportionment of the income of Two Benefices belonging to the same Patron, or the income of One Benefice having more than One Church or Chapel, between the Incumbents or Ministers of such Benefices, Churches or Chapels; but this power shall not be exercised with respect to Benefices in Lay Patronage without the consents of the respective Patrons, nor in any case without the consent of the Bishop of the Diocese, except where the Bishop himself is Patron, and in that case the consent of the Archbishop shall be required.

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67.
Provision for existing Interests.

NONE of these enactments respecting the division of corporate property, the severance of separate property, or the exercise of Patronage in respect of separate property, shall affect any Dean, Archdeacon, Canon, Prebendary, Dignitary, or Officer (except the said Henry Hart Milman and John Jennings), who shall be in possession at the time of passing this Act; but every such Dean, Archdeacon, Canon, Prebendary, Dignitary and Officer thereafter appointed shall be subject to such regulations as shall be made in pursuance of this Act; and the proposition respecting the qualification of persons to be presented to Benefices, and the apportionment of the income of any Benefice in the Patronage of any Chapter, shall not affect such Chapter so long as any person who was a Member thereof on the Thirteenth day of August One thousand eight hundred and Thirty-six shall continue such Member.

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68.
Valuation of Ecclesiastical Revenues.

THE ECCLESIASTICAL Commissioners for England from time to time, as they shall think necessary, shall cause to be amended the Valuation of the Revenues of the Bishopricks, Cathedrals, Collegiate Churches, Ecclesiastical Corporations aggregate and sole, and Benefices in England and Wales, which was made and estimated according to the Returns made to the Commissioners appointed to inquire into the Revenues and Patronage of the Established Church in England and Wales, and specified in the Report made by the said last-mentioned Commissioners bearing date the Sixteenth day of June One thousand eight hundred and Thirty-five; and when any such amended Valuation shall be completed, the same shall be printed by Her Majesty's Printer, and shall be received as evidence

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evidence of the value of every Dignity, Office or Benefice therein mentioned.

ALL Monies received by the Treasurer of the Governors of the Bounty of Queen ANNE, under the Act passed in the sixth year of the reign of his late Majesty, for protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries and Benefices without Cure of Souls, and for preventing the lapse thereof during the pending inquiries respecting the state of the Established Church in England and Wales, shall be paid over to the Ecclesiastical Commissioners for England; and the said Act shall be repealed.

69.
Certain Monies to be paid by Treasurer of Queen Anne's Bounty to Ecclesiastical Commissioners.

THE LANDS, Tithes, Hereditaments, Monies and Revenues to be vested in and paid to the Ecclesiastical Commissioners for England under these enactments, shall be, after a due consideration of the wants and circumstances of the places in which they accrue, except as herein specified, applied to the purpose of making additional provision for the Cure of Souls in Parishes where such assistance is most required, in such manner as shall be most conducive to the efficiency of the Established Church.

70.
Application of Estates vested in Ecclesiastical Commissioners.

THE ECCLESIASTICAL Commissioners for England shall be empowered to inquire into the state of those Hospitals which were returned as Promotions Spiritual in the reign of King Henry the Eighth; and in those cases in which they shall find the Endowments of such Hospitals to be capable, after satisfying the objects of the Founder's Bounty, of affording a better provision for the Cure of Souls in the Parishes with which they are connected, the said Commissioners shall consider and report to Her Majesty in Council, and Her Majesty in Council shall be empowered to sanction measures for effecting such Provision.

71.
Inquiry into Hospitals which were Promotions Spiritual in the reign of King Henry VIII.

AND whereas it is expedient that Her Majesty should be empowered to appoint additional Commissioners to assist in giving effect to these enactments; BE it also Enacted, That it shall be lawful for Her Majesty to appoint, under the Royal Sign Manual, *Four* fit persons, being Members of the Church of England, *Three* of whom at least shall be Clerks in Holy Orders of the Church of England to be Ecclesiastical Commissioners and Members of the Body Corporate of "the Ecclesiastical Commissioners of England," in addition to the Commissioners already appointed by and under the said Act of the seventh year of his late Majesty.

72.
Additional Commissioners appointed.

73.
Succession
of Commis-
sioners.

And be it Enacted, That every Commissioner to be appointed under this Act, or under the said Act of the seventh year of his late Majesty, who shall not have become a Commissioner by virtue of any dignity or office, shall be at all times removable by Her Majesty in Council by warrant under the sign manual; and when any vacancy shall occur by death, removal, resignation or otherwise, among the said additional Commissioners, or of any Commissioner who shall not have become such Commissioner by virtue of any dignity or office, it shall be lawful for Her Majesty to fill up such vacancy by appointing, under the Royal sign manual, some other fit person, being a member of the Church of England, to be a Commissioner under this Act, so that *Three* at least of the Commissioners who shall at any time hold the place of the said *Four* additional Commissioners shall be Clerks in Holy Orders of the Church of England; and every person so appointed shall accordingly become to all intents and purposes one of the Commissioners for the purposes of this Act, and of the said Act of the seventh year of his late Majesty.

74.
Commis-
sioners to
subscribe a
Declaration.

And be it Enacted, That every additional Commissioner named by this Act, or so to be appointed, and not being a Clerk in Holy Orders of the Church of England, shall, before acting under the Commission, subscribe the Declaration required of the other Lay Commissioners by the first-recited Act.

75.
Provisions of
6 & 7 W. 4,
c. 77, to extend
to this Act.

And be it Enacted, That all the powers and authorities vested in the Ecclesiastical Commissioners for England by the first-recited Act, with reference to the matters therein contained, shall be continued and extended to the Ecclesiastical Commissioners, as constituted by this Act, with reference to all matters contained in the said Act or in this Act, and may be used and exercised by them as fully and effectually as if the said powers and authorities were repeated in this Act; and the first recited Act and this Act shall be construed as if they were one and the same Act.

76.
Ecclesiastical
Commission-
ers to lay
Schemes be-
fore Queen in
Council, for
carrying into
effect the said
Recommend-
ations.

And be it Enacted, That the Ecclesiastical Commissioners for England shall from time to time prepare and lay before Her Majesty in Council such Schemes as shall appear to the said Commissioners to be best adapted for carrying this Act into effect; and shall in such Schemes recommend and propose all such measures as may, upon further inquiry, which the said Commissioners are hereby authorized to make, appear to them to be necessary for carrying the same into full effect: Provided always, That nothing herein contained shall be construed to prevent the said Commissioners from proposing in any such Scheme such modifications or variations, as to matters of detail and regulation, as shall not be substantially repugnant to any provision of this Act, or of the first-recited Act.

And

And be it Enacted, That when any such Scheme shall be approved by Her Majesty in Council, it shall be lawful for Her Majesty in Council to make an Order or Orders ratifying the same, and specifying the time or times when such Scheme or the several parts thereof shall take effect, and to direct every such Order to be registered by the Registrar of each of the Dioceses, whereof the Bishop, or within which any Cathedral or Collegiate Church, Chapter, Member of a Chapter, Officer, Incumbent, or any other person or body corporate, may or shall be in any respect affected thereby.

77.
Queen in Council may make orders for carrying Schemes into effect.

And be it Enacted, That every such Order shall, as soon as may be after the making thereof by Her Majesty in Council, be published in the London Gazette ; and so soon as any such Order in Council shall be so gazetted, it shall in all respects, and as to all things therein contained, have and be of the same force and effect as if all and every part thereof were included in this Act ; any law, statute, canon, letters patent, grant, usage or custom to the contrary notwithstanding.

78.
Orders to be gazetted, and then to be of full effect.

And be it Enacted, That a Copy of every Order of Her Majesty in Council made under this Act shall be laid before each House of Parliament in the month of *January* in every year, if Parliament shall be then sitting, or if Parliament be not then sitting, within *One Week* after the next meeting thereof.

79.
Copies of Orders to be laid before Parliament.

And be it Enacted, That the Registrar of every Diocese to whom any Order of Her Majesty in Council made by virtue of this Act shall be delivered, shall forthwith register the same in the registry of his Diocese ; and if any such Registrar shall refuse or neglect to register any such Order, he shall, for every day during which he shall so offend, forfeit and if his offence shall continue for the space of *Three Months*, he shall forfeit his office, and it shall be lawful for the Bishop of the Diocese to appoint a successor thereto.

80.
Registrars to register all Orders, subject to a Penalty for neglect.

And be it Enacted, That for such registration as aforesaid no Registrar shall be entitled to receive any fee or reward, but on every search for any such Order he shall be entitled to receive a fee of *Three Shillings*, and for every copy or extract of any such Order certified by him he shall be entitled to receive for every folio of *Ninety Words* ; and the copy of every such entry, certified by the Registrar, shall be admissible as evidence in all courts and places whatsoever.

81.
Fee to Registrar.

And be it Enacted, That upon the suppression of any Rectory, Deanery, Prebend, Dignity or Office, all the estate and interest which

82.
Estates of suppressed Rectories and Dignities

vested in the
Ecclesiastical
Commission-
ers.

which the holder thereof and his successors had in any lands, tithes and other hereditaments or endowments whatsoever belonging to or usually held and enjoyed with such suppressed Rectory, Deanery, Prebend, Dignity or Office, and also all the estate and interest of the Chapter of any Cathedral or Collegiate Church in England or Wales in any lands, tithes and other hereditaments or endowments whereof the rents and profits have been usually taken and enjoyed by the holder of any such suppressed Rectory, Deanery, Prebend, Dignity or Office, separately from and in addition to his share (if any) of the Corporate Revenues which have been usually divided among all the members of the Chapter, shall forthwith accrue to and be vested absolutely in the Ecclesiastical Commissioners for England and their successors, to be by them holden, taken and applied for the purposes of this Act. 5 10

83.

Profits of sup-
pressed Ca-
nonries and
Prebends to
be paid to the
Ecclesiastical
Commission-
ers.

And be it Enacted, That all profits and emoluments arising from any Canonry or Prebend which shall be suppressed under the provisions of this Act, whether from rents, fines, compositions, dividends or other emoluments, shall be paid to the said Ecclesiastical Commissioners for England, for the purposes of this Act, in like manner as the Canon or Prebendary, if he had remained in possession, or his successor, if a successor had been appointed, would have been entitled to receive the same; and that for the purpose of enforcing payment of all such profits and emoluments, the said Commissioners shall have and enjoy all rights, powers and remedies, at law or in equity, which belonged to such Canon or Prebendary, or which would have belonged to his successor, if such Prebend or Canonry had not been suppressed: Provided, That nothing herein contained shall apply to either of the Canonries or Prebends in the Cathedral Church of Chester; but that the profits and emoluments belonging to the two Prebends to be suppressed in that Chapter shall become, as the Vacancies occur, part of the divisible Corporate Revenues of the said Chapter, and shall be divided among the other members of the Chapter accordingly. 15 20 25 30

84.

Repeal of 5 &
6 W. 4, c. 30,
6 & 7 W. 4, c.
67, 7 W. 4,
and 1 Vict.,
Treasurer of
Queen Anne's
Bounty to
account.

And be it Enacted, That an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act for protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries and Benefices with Cure of Souls, and for preventing the Lapse thereof during the pending Inquiries respecting the State of the Established Church in England and Wales;" also another Act passed in the seventh year of the reign of his late Majesty, intituled, "An Act for suspending for One Year Appointments to certain Dignities and Offices in Cathedral and Collegiate Churches, and to Sinecure Rectories;" and also those provisions of another Act passed in the last Session of Parliament, intituled, "An Act to continue, until the First day of August One thousand eight hundred and 35 40

- and Thirty-eight, and to the end of the then Session of Parliament, two Acts of the last Session of Parliament for suspending Appointments to certain Dignities and Offices in Cathedral and Collegiate Churches and to Sinecure Rectories, and for preventing the immediate effects on Ecclesiastical Jurisdictions of the measures in progress for the Alteration of Dioceses," which relate to the two last recited Acts, are hereby Repealed; and within One calendar Month after the *passing of this Act*, the Treasurer of the Governors of the Bounty of Queen Anne shall deliver to the said Ecclesiastical Commissioners for England a full and particular account of all monies received and paid by him under and by virtue of the said Acts or any of them, and of all things done by him, and of all proceedings then pending in respect thereof; and, within *One Week* after the delivery of such account, he shall pay or cause to be paid to the said Commissioners the balance then remaining in his hands, or to his account, in respect thereof.

- And be it Enacted, That the Patronage of all Benefices with Cure of Souls now belonging to the Corporations of Vicars Choral in the Cathedral Churches of York and Exeter respectively, and of the Custos and Vicars in the Cathedral Church of Hereford, shall, upon the death, resignation or removal of all the members thereof respectively who were appointed before the Twenty-fourth day of June in the year One thousand eight hundred and Thirty-six, be absolutely vested in the Chapters of the said Cathedral Churches of York, Exeter and Hereford respectively, subject to the provisions hereinbefore contained touching the patronage of Benefices possessed by any Chapter.

85.
Patronage of
Vicars Choral
of York and
Exeter, and of
Custos and
Vicars of
Hereford, to be
vested in the
Chapters.

- And be it Enacted, That after the next avoidance of any Deanery or Canonry, such fixed annual sums shall be paid to the Ecclesiastical Commissioners for England, out of the revenues of the larger Deaneries and Canonries respectively, as shall upon due inquiry and consideration be determined on, so as to leave to no future Dean a larger average annual income than *Two thousand Pounds* sterling, and to no future Canon a larger average annual income than *One thousand Pounds* sterling; and at the expiration of every *Seven Years*, reckoning from the *First day of January One thousand eight hundred and Thirty-eight*, a new return of the Revenues of all the Deaneries and Canonries shall be made to the Ecclesiastical Commissioners, and thereupon the scale of payments shall be revised, so as to leave to every such Dean and Canon respectively, as nearly as may be, an amount of income not greater than *Two thousand and One thousand Pounds* respectively, and such revised scale shall take effect as to each Deanery and Canonry respectively upon the next avoidance thereof within the said period of *Seven Years*; and the several

86.
No Dean to
receive more
than 2,000 £.,
or Canon more
than 1,000 £.
per annum.

sums so paid to the Ecclesiastical Commissioners shall be applied by them towards increasing small Benefices with Cure of Souls in each case according to a Scheme for that purpose to be prepared by them and laid before Her Majesty in Council, which Scheme shall be taken to be a Scheme within the other provisions of this Act.

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87.
Commission-
ers may frank
Letters on the
business of
this Act.

And be it Enacted, That the Ecclesiastical Commissioners for England shall and may receive and send all letters and packets relating solely to the execution of this Act, and of the said first-recited Act, free from the duty of postage, provided that such letters and packets shall be directed to "The Ecclesiastical Commissioners for England;" and that all such letters and packets as shall be sent by the said Commissioners shall be dated from their said Office, and shall be signed on the outside of such letters and packets by such person as the said Commissioners shall appoint, with the consent of the Lord High Treasurer, or *Three* or more of the Commissioners of Her Majesty's Treasury, under such restrictions as the said Lord High Treasurer or Lords Commissioners of the Treasury shall think fit to be enforced.

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88.
Act may be
repealed or
amended.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

Ecclesiastical Duties and Revenues.

A

B I L L

To carry into Effect, with certain Modifications, the Fourth Report of the Commissioners of Ecclesiastical Duties and Revenues.

(Prepared and brought in by
Lord John Russell and
Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, to be Printed,
6 April 1838.

14 June 1838.—1 VICT.



A

B I L L,

INTITULED,

AN ACT to amend and render more effectual the Church Building Acts.

*Note.—The Figures in the Margin denote the Number of Folios in
the Written Copy.*

- 1 **W**HEREAS an Act was passed in the fifty-eighth year of his Majesty King GEORGE the Third, intituled, “ An Act for building and promoting the building of additional Churches in populous Parishes:” And whereas another Act was passed in the fifty-ninth year of the reign of his Majesty King GEORGE the Third, intituled, “ An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes:” And whereas another Act was passed in the third year of the reign of his Majesty King GEORGE the Fourth, intituled, “ An Act to amend and render more effectual Two Acts passed in the Fifty-eighth and Fifty-ninth Years of his late Majesty, for building and promoting the building of additional Churches in populous Parishes:” And whereas another Act was passed in the fifth year of the reign of his Majesty King GEORGE the Fourth, intituled, “ An Act to make further Provision, and to amend and render more effectual Three Acts passed in the Fifty-eighth and Fifty-ninth Years of his late Majesty, and in the Third Year of the Reign of his present Majesty, for building and promoting the building of additional Churches in populous Parishes:” And whereas another Act was passed in the seventh and eighth years of the reign of his Majesty King GEORGE the Fourth, intituled, “ An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes:” And whereas another Act was passed in the first and
- Preamble:
58 G. 3. c. 45.
59 G. 3. c. 134.
3 G. 4. c. 72.
5 G. 4. c. 103.
7 & 8 G. 4.
c. 72.
490. A second

1 & 2 W. 4.
c. 38.

2 & 3 W. 4.
c. 61.

1 Vict. c. 75.

1.
To remove
doubts as to
jurisdiction
of Bishops in
certain cases,
with respect
to the patron-
age of
Churches and
Chapels,
under
1 & 2 W. 4.
c. 38. s. 2.

second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend and render more effectual an Act passed in the Seventh and Eighth Years of the Reign of his late Majesty, intituled, 'An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes :'" And whereas another Act was passed in the second and third years of the reign of his said late Majesty, to render more effectual the aforesaid Act passed in the fifty-ninth year of the reign of his Majesty King GEORGE the Third: And whereas another Act was passed in the first year of the reign of Her present Majesty Queen VICTORIA, intituled, "An Act to prolong for Ten Years Her Majesty's Commission for building new Churches :'" And whereas it is expedient to explain, amend and render more effectual some of the Provisions of the said several recited Acts ; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT where the Population of any Parish or extra-parochial place, according to the Returns then last made in pursuance of any Act or Acts of Parliament, shall amount to Two thousand Persons, and where the existing Church or Churches, Chapel or Chapels, situate therein do not afford accommodation for more than One-third of the Inhabitants of such parish or extra-parochial place for their attendance upon Divine Service according to the rites of the United Church of England and Ireland, or where in any parish or extra-parochial place Three hundred Persons, whatever may be the amount of the whole population in any such parish or extra-parochial place, shall be resident upwards of Two Miles from the existing Church or Chapel, and within One Mile of the site upon which a new Chapel is built or proposed to be built and endowed under the provisions of the said recited Act passed in the first and second years of his late Majesty King WILLIAM the Fourth, or this Act, and where, in any such case as aforesaid, any person or persons belonging to the Church of England shall have built, or shall declare his, her or their intention of building a Church or Chapel, or shall have purchased or shall hereafter purchase, or shall declare his, her or their intention of purchasing, any building, fit, in the opinion of the Bishop of the Diocese, to be used as a Church or Chapel for the performance of Divine Service as aforesaid, such Church, Chapel or Building being in such a situation within the said Parish or extra-parochial place as shall, in the opinion of the Bishop of the Diocese, be adapted to the convenience of that portion of the Inhabitants for whom such additional accommodation is required, it shall and may be lawful, in any such case as aforesaid, for such Bishop, if he shall see fit, to declare by writing under his hand and seal that (after certain conditions are or shall have been already performed with respect to endowment and the providing a fund for the repairs of such Church or Chapel, and the appropriation of free Seats, which are in the

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the said last-mentioned Act in such cases more particularly specified,) the right of nominating a Minister to such Church or Chapel, when so built or purchased, shall for ever thereafter be vested in the Person or Persons so building and endowing or purchasing and endowing the same, his, her or their heirs and assigns, or in certain trustees, or in some ecclesiastical person or body corporate, and his and their successors, in the said last-mentioned Act specified: Provided always, That nothing herein contained shall be construed to alter or repeal the provisions in the said last-mentioned Act respecting any Church or Chapel under the said Act intended for the accommodation of Three hundred Persons resident upwards of Two Miles from the existing Church or Chapel being built nearer than Two Miles from such existing Church or Chapel: Provided also, That it shall be left to the Bishop of the Diocese to determine whether One-third part of the Sittings required in the said last-mentioned Act to be free in every Church or Chapel built or to be built under the provisions of the said Act shall be free, or whether the same or any part thereof shall be let at such low rents as such Bishop may from time to time direct; any thing in the said last-mentioned Act or this Act contained to the contrary notwithstanding.

And be it further Enacted, That where Notices by the said last recited Act are required to be sent to or served upon the Patron or Incumbent, a Notice to the Patron alone shall be sufficient in those cases where, at the time such Notices are required to be sent or served as aforesaid, there shall be no Incumbent of the Parish in which such Church or Chapel is built or proposed to be built and endowed under such last recited Act or this Act, and where such Parish shall have remained without an Incumbent for the space of Twelve Months.

And be it further Enacted, That for the purposes of the said last-mentioned Act or this Act an Endowment of Forty Pounds per Annum arising out of houses, lands, tithes, rent-charges, tenements, or other hereditaments, or any or either of the said securities, whether wholly or jointly, shall be considered as equivalent to the sum of One thousand Pounds directed by the said recited Act to be secured in those cases where the Bishop of the Diocese is authorized, if he sees fit, to grant the perpetual right of nominating a Minister in the manner in the said last-mentioned Act or this Act specified.

And be it further Enacted, That in those cases where, by the said last-mentioned Act, Her Majesty's Commissioners for building new Churches are empowered, if they shall see fit, with the consent of the Bishop of the Diocese, to declare the right of nominating a Minister to such Church or Chapel, built or intended to be built and endowed to the satisfaction of the said Commissioners in the manner in the said

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last-

2.

Where there is no Incumbent, notice on Patron to be sufficient.

3.

In cases within the jurisdiction of the Bishop, an endowment of 40*l.* per annum from houses, lands, tithes, rent-charges, &c., equivalent to 1,000*l.* Investment in Funds.

4.

Commissioners for building new Churches may accept, by way of endowment, Real and Personal Securities, wholly or jointly.

last-mentioned Act specified, it shall and may be lawful for the said Commissioners to accept, by way of Endowment for such Church or Chapel, such sum as they may consider satisfactory, whether the same be secured on land, or on money charged on land or vested in the funds, or on houses, tenements or other hereditaments, or any or either of the said securities, whether wholly or jointly; and it shall be lawful for the said Commissioners, if they shall think fit, in any or either of such modes of Endowment, to declare, with the consent of the Bishop of the Diocese, the right of nominating a Minister as aforesaid, in like manner as they are empowered to do under the said last-mentioned Act, when the other conditions therein mentioned shall have been complied with.

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5.
Powers of Commissioners applicable to certain Buildings, when the same are consecrated.

And be it further Enacted, That the powers granted by the said last-mentioned Act to the said Commissioners with respect to the granting the right of nomination as aforesaid, and the provisions of such Act and of this Act relating thereto, shall extend to cases where a building has been or shall be purchased by any person or persons, fit, in the opinion of the said Commissioners, to be used, when consecrated, as a Church or Chapel for the performance of Divine Service as aforesaid.

6.
Form of Conveyance with respect to Churches and Chapels under 1 & 2 W. 4. c. 38.

And be it further Enacted, That all Grants, Conveyances, and Assurances of any Site for any Church or Chapel, or any Churchyard, under the provisions of the said last-mentioned Act or this Act, in respect of any messuages, buildings, lands, grounds, tenements, or hereditaments, whether belonging to Her Majesty, as part of the Duchy of Cornwall or of the Duchy of Lancaster, or otherwise, or to any body or persons whatever, may and shall be made according to the Form following, or in such other Form as the case may require, or as near thereto as the circumstances of the case will admit; videlicet,

" I [or we, or the corporate title, if a corporation] under the authority of an Act passed in the first year of the reign of Her present Majesty, intituled, " An Act to amend and render more effectual the Church Building Acts," do hereby freely and voluntarily give to Her Majesty's Commissioners for building new Churches [or, to as the case may require,] *and by these presents freely and voluntarily, and without any valuable consideration,* [if the lands, et cetera, are conveyed for a valuable consideration, leave out the words in Italics, and insert 'do for and in consideration of the sum of

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to me, or us, or the paid,'] hereby, under the authority of the said recited Act, grant, convey and release to the said all [describing the premises to be conveyed], and all my [or, our, or the] right, title and interest of [if a corporation] to and in the same and every part thereof; to hold to the said and their successors for the purposes of the said Act,

Act, and to be devoted, when consecrated, to ecclesiastical purposes for ever, by virtue and according to the true intent and meaning of the before-mentioned Act. In witness, et cetera."

And all such conveyances and assurances shall be valid and effectual in the law to all intents and purposes, and shall be a complete bar to all estates tail and other estates, rights, titles, trusts, interests and incumbrances whatsoever.

7 AND whereas it is by the said recited Act passed in the first and second years of his late Majesty King WILLIAM the Fourth, amongst other things enacted, that in certain Parishes of large extent, where there exist Chapels of Ease at a considerable distance from the Parish Church, having chapelries, townships or districts belonging or supposed to belong thereto, when any person or persons should be willing to endow any such Chapel with [such a provision secured upon land, money in the funds, tithes or other hereditaments, as should in the opinion of the Bishop of the Diocese be sufficient to ensure a competent stipend to the Minister of such Chapel, it should be lawful for the Bishop, with certain consents therein mentioned, to declare that such Chapel, when so endowed, should thenceforth be separate from and independent of the Parish Church, and that the chapelry, township or district belonging or supposed to belong thereto should be thenceforth a separate and distinct Parish for all spiritual purposes; and that it should be lawful for the Patron, with the consent of the Incumbent, to make any agreement with the Bishop of the Diocese touching the future right of nomination to such Chapel, such agreement to take effect in the manner therein mentioned: AND whereas doubts may arise as to the extent and meaning of such provisions; BE it therefore Enacted, That such provisions shall extend to any Churches or Chapels, with chapelries, townships or districts as aforesaid, whether the same were or shall be erected and consecrated before or after the passing of the said last-mentioned Act.

7.
To remove doubts as to the meaning and extent of 23d Section of 1 & 2 W. 4. c. 38.

8 And be it further Enacted, That after any Instrument declaring the right of nomination to any Church or Chapel shall have been executed by Her Majesty's said Commissioners, or by the Bishop of the Diocese, as the case may require, under the provisions of the said last-mentioned Act or this Act, and the same shall have been registered in the Registry of the Diocese, it shall not be necessary, after Five Years from the time at which such Instrument has been executed and registered as aforesaid, to prove that the facts stated in such Instrument are correct, as to the amount of population or church accommodation in the Parish or extra-parochial place in which the said Church or Chapel shall have been built, or as to the amount of population resident upwards of Two Miles from any existing Church or Chapel, and within One Mile

8.
After Instrument of nomination to a Church or Chapel under 1 & 2 W. 4. c. 38. has been executed and registered Five Years, the validity thereof not to be questioned in Courts of Law.

of the site on which such new Church or Chapel is erected, or as to the cost of building or purchasing and fitting up the same, or as to its endowment and repairing fund, or proportion of pews and free sittings, but such facts so stated in such Instrument as aforesaid, shall after such period as aforesaid be admitted in all Courts as true and correct ; and such Instrument of nomination shall be after such period in all Courts conclusive evidence that the declarations by the said last-mentioned Act required to be made by the person or persons having built, building or intending to build, or purchase and endow a Church or Chapel, according to the provisions of the said last-mentioned Act, have been duly made, and that the several other conditions, declarations, applications, notices, matters and things required by the said last-mentioned Act or this Act to be respectively performed, made, given and done previous to the declaration of the right of nomination as aforesaid being made and given by the aforesaid party or parties, and by the Bishop of the Diocese, or Her Majesty's said Commissioners, as the case may require, have been respectively duly complied with, performed, made, given and done according to the provisions of the said recited Act or this Act ; and further, that the Patron or Patrons of the Mother Church of such Parish hath not or have not, within Two calendar Months after being served with such Notice as by the said Act is required, bound him, her or themselves, by bond or other sufficient security, to Her Majesty's said Commissioners or to the Bishop of the Diocese, as the case may require, that he, she or they should within Two Years thereafter build or purchase, and completely finish and endow an additional Church or Chapel in such Parish to the satisfaction of the Bishop of the Diocese, and that he, she or they should also comply with and perform all and singular the conditions in the said Act mentioned ; and provided also, That nothing herein contained shall invalidate or be construed to invalidate any Instruments declaring the right of nomination to a Church or Chapel under the provisions of the said last-mentioned Act, which have been executed by the Bishop of any Diocese or by Her Majesty's said Commissioners before the passing of this Act, but that the same and every matter and thing done in respect or in consequence thereof in pursuance of the provisions of the said recited Act, shall be as valid and effectual as if this Act had not been passed : Provided always, That nothing in this Act contained shall be construed as giving to any Bishop or to the said Commissioners, any power or authority not given to him or them by the said last-mentioned Act as to any Church or Chapel, respecting the right of nomination to which any proceeding at law or equity shall be depending at the time of passing this Act.

9.
Parish and
extra-paro-
chial place

AND whereas by the said recited Act passed in the fifty-eighth year of the reign of his late Majesty King GEORGE the Third, it was enacted

- enacted that it should be lawful for his Majesty in Council, if he should judge fit, on a representation to be made to him by the said Commissioners of the expediency of the same, with the consent of the
- 10 Bishop of the Diocese and the Patron, to direct by an Order in Council the division of any Parish into Two or more distinct and separate Parishes, for all ecclesiastical purposes whatever: AND whereas it was by the said last-recited Act also enacted that it should be lawful for his Majesty in Council, if he should judge fit, on a representation to be made to him by the said Commissioners, with the consent of the Bishop of the Diocese, in like manner, in any case in which they should be of opinion that it was not expedient to divide any populous Parish or extra-parochial place into such complete, separate and distinct Parishes as aforesaid, by an Order in Council to direct the division of the same into Ecclesiastical Districts: AND whereas it may be found expedient to divide off from any Parish or extra-parochial place any part or parts thereof, and to form the same at once or at different times into a distinct and separate Parish or Parishes, and into a District Parish or District Parishes and District Chapelry or Chapelries, or to make such extra-parochial place or any part thereof a District Parish; BE it therefore Enacted, That it shall be lawful for Her Majesty in Council, where She shall judge fit, on a representation to be made to Her by the said Commissioners of the expediency of the same, to direct by an Order in Council the dividing off from any original Parish or extra-parochial place any part or parts thereof, and forming the same into a distinct and separate Parish or distinct and separate Parishes, or into a District Parish or District Parishes, either at the same time or at separate times, and to make any extra-parochial place or any part thereof a District Parish or District Chapelry, or a part of such District Parish or District Chapelry, and also at any time to direct the dividing off any such separate and distinct Parish or District Parish so formed into other distinct and separate or District Parish or Parishes, or District Chapelry or Chapelries: Provided always, That all such divisions, and all
- 11 Parishes so divided, shall respectively be under and subject to the like consents and to the same rules and regulations as are provided in the said recited Acts or this Act with respect to distinct and separate Parishes and District Parishes and District Chapelries respectively; and that the nomination to the Chapel of a Chapelry district so taken from any distinct and separate Parish or District Parish as aforesaid shall belong to the Incumbent of the distinct and separate Parish or District Parish out of which such District Chapelry shall have been taken.

may be divided into distinct and District Parishes or District Chapelries at the same time, or at separate times.

And be it further Enacted, That in the case of District Chapelries, the license of the Stipendiary Curate appointed to serve the Chapel of such Chapelry shall not be rendered void by the avoidance of the Church of the Parish or District Parish in which such Chapel is situate, unless

10.
License of Stipendiary Curate of District Chapelry not to be void by avoidance of Parish

Church, unless revoked by the Bishop of the Diocese.

unless the same shall be revoked by the Bishop of the Diocese under his hand and seal; but such license shall continue in force, unless otherwise directed as aforesaid by such Bishop, notwithstanding the avoidance of the Church of the Parish or District Parish, any statute, law, canon or usage to the contrary notwithstanding.

11.
Act of
1 & 2 W.
c. 45. extended, with respect to endowments to Chapels of consolidated Chapelries.

AND whereas by an Act passed in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to extend the Provisions of an Act passed in the Twenty-ninth Year of the Reign of his Majesty King CHARLES the Second, intituled, 'An Act for confirming and perpetuating Augmentations made by Ecclesiastical Persons to small Vicarages and Curacies,' and for other purposes," it is amongst other things enacted, that it should be lawful for any Rector or Vicar for the time being of any Rectory or Vicarage, by a deed duly executed by him, to annex to any Chapel of Ease or Parochial Chapel, or to any District Church or Chapel, or any Chapel having a district assigned thereto, whether then already built or thereafter to be built, (such Chapel of Ease or other Chapel or Church, with the district or place to which the same belongs, being situate within the limits or within the original limits of the said Rectory or Vicarage,) any part or parts of the tithes or other annual revenues belonging to such Rectory or Vicarage, or to grant to the Incumbent for the time being of any such Chapel of Ease or other Chapel or Church, and his successors, any annual sum of money, and to charge the same on all or any part of such tithes or other revenues as aforesaid, or on any lands or other hereditaments belonging to the said Rectory or Vicarage; provided that every such grant and annexation should be made with the consent of the Archbishop or Bishop of the Diocese within which the Rectory or Vicarage should be situate, or if the Rectory or Vicarage should be situate within a peculiar jurisdiction belonging to any Archbishop or Bishop, then, with the consent of the Archbishop or Bishop to whom such peculiar jurisdiction should belong, and also with the consent of the patron or patrons of the said Rectory or Vicarage, such consents to be signified as in the said Act is expressed: AND whereas it is expedient that the powers of the last-recited Act should be enlarged; BE it therefore further Enacted, That in all cases in which any contiguous parts of several Parishes may have been or shall hereafter be united into a separate and distinct district for all ecclesiastical purposes, and such district shall have been or shall hereafter be duly constituted a consolidated Chapelry, it shall be lawful for the Rectors or Vicars for the time being of the several Parishes parts of which shall have been so united, to have, use and exercise respectively all the same powers and authorities for annexing to any such consolidated Chapelry any part or parts of the tithes or other annual revenues belonging to their Rectories or Vicarages respectively

13 respectively, and for granting to the Incumbent for the time being of any such consolidated Chapelry and his successors any annual sum of money, to be payable by equal quarterly or equal half-yearly payments, and for charging the same on all or any part of such tithes or other revenues as aforesaid, or on any land or other hereditaments belonging to the said Rectories or Vicarages respectively, as are by the said last-recited Act given to Rectors and Vicars for the augmentation of Chapels of Ease, and such other Chapels and Churches as are therein and hereinbefore specified : Provided always, That the exercise of such powers shall be subject to the like consents (to be signified in the same manner) as is required by the said Act with regard to the exercise of the powers of the said Act for the augmentation of Chapels of Ease and the other Chapels and Churches therein specified ; and in every case in which any such tithes, or other revenues shall be annexed by virtue of this Act to any consolidated Chapelry, the Incumbent for the time being thereof shall thenceforth have all the same remedies for recovering and enforcing payment of the premises which shall be so annexed as the Rectors or Vicars for the time being of the said Rectories or Vicarages respectively might have had if such annexation had not been made ; and in every case in which any annual sum of money shall be granted by virtue of this Act to the Incumbent of a consolidated Chapelry, such Incumbent and his successors shall have all such remedies for recovery and enforcing payment thereof by action of debt against the Incumbent of the Rectory or Vicarage by whom any such annual sum shall have been granted, or the Incumbent thereof for the time being, or by distress upon the hereditaments to be charged therewith or otherwise as shall in that behalf be specified and given by the deed by which the grant shall be made.

And be it further Enacted, That the power of surrendering any right of patronage, presentation or appointment to any Benefice, Donative, Perpetual Curacy, or of any Spiritual Person to any Church or Chapel or any endowments or emoluments for the use of any Church or Chapel, or the Incumbent thereof, and of making any agreement relative thereto with the said Commissioners or the Bishop of the Diocese, which is given by the said recited Act passed in the third year of the reign of his late Majesty GEORGE the Fourth to bodies politic, corporate or collegiate, corporations aggregate or sole, and to the persons and parties and for the purposes in the said Act specified, shall extend to any surrender or agreement for such purposes, whether the same be made to or in favour of or entered into with or by any lay or spiritual person or persons or corporation aggregate or sole ; provided that such surrender or agreement be sanctioned by the said Commissioners under their common seal, and by the Bishop of the Diocese under his hand and seal.

12.
Surrender of
Rights of
Patronage
permitted for
certain pur-
poses by
Sect. 15. of
3 G. 4. c. 72.
to apply to
cases whether
the surrender-
ence be Lay
or Spiritual.

13.
Commis-
sioners, with
consent of
Bishop, &c.,
may make
any Church
or Chapel
the Parish
Church of
any Parish,
and the
Parish
Church a
District
Church or
Chapel of
Ease.

AND whereas it may be expedient in certain cases that a Church or Chapel should be constituted the Parish Church of the Parish in which the same is situate, in the stead of the ancient Parish Church, and that such ancient Parish Church should thenceforth become a District Church or Chapel of Ease in such Parish; BE it therefore 14
Enacted, That it shall be lawful for the said Commissioners, with the consent in writing of the Bishop of the Diocese and of the Patron of the said Parish Church, and with the consent also of the Vestry or persons possessing the power of Vestry, to order and direct, by instrument under their common seal, that any Church or Chapel in any Parish shall become and be and remain the Parish Church of such Parish, in the stead of the ancient Parish Church; and the said Church or Chapel so constituted the Parish Church shall thenceforth become and be and remain and be taken in law to be the Parish Church of such Parish, as fully and effectually, for all purposes, and in relation to all rights, emoluments, endowments, dues, privileges, and all other matters and things, civil or ecclesiastical, theretofore belonging to the Parish Church, or Patron or Lay Impropriator (if any thereof), as if the same had been always the Parish Church of such Parish; and the said Commissioners are hereby empowered to authorize and direct the transfer of the endowments, emoluments or rights of or belonging to the old and existing Church of such Parish, or to the Incumbent for the time being thereof, to any such Church or Chapel so made and constituted the Parish Church as aforesaid, and to the Incumbent thereof for the time being, and his successors; and it shall be lawful in every such case for any Trustees of any such ancient Church as aforesaid, or of any rights, emoluments and endowments of or belonging to any such Church, or to the Incumbent thereof for the time being, and they are hereby required (and indemnified for so doing), to transfer all such rights, emoluments and endowments, according to the direction of the said Commissioners, to 15
such Church or Chapel so constituted the Parish Church as aforesaid, or to the Incumbent thereof; and immediately from and after any such transfer as aforesaid, all tithes or commutations for tithes, moduses or other compositions for tithes, and all emoluments, dues, fees, offerings, oblations, and other profits and advantages, and all messuages, glebe and other lands, tenements or hereditaments, rents, sums of money, or real or personal chattels whatsoever, and all rights and privileges whatsoever and wheresoever, wherewith any such ancient Church may be endowed, or to which the Minister thereof then is or at any time theretofore was or ought to be entitled, shall severally and respectively become and be vested in the Minister for the time being of the said Church or Chapel so made the Parish Church as aforesaid, and his successors for ever, in as full and ample a manner

mauner as the Minister of the ancient Church might or could have received and enjoyed the same in case such substitution or transfer had not been made; and every such Instrument of substitution and transfer shall be registered in the Registry of the Diocese, and enrolled in the High Court of Chancery; and all Acts of Parliament, laws and customs relating to the publishing Banns of Marriage, and celebration of Marriages, Christenings, Churchings and Burials, and to all ecclesiastical fees, oblations and offerings, shall apply to every such Church or Chapel so constituted the Parish Church as aforesaid, in like manner in every respect as to the former Parish Church of the said Parish; and such former Parish Church shall from such time be and be deemed to be a District Church or a Chapel with or without a
 16 district, as the said Commissioners shall in such case direct: Provided always, That no such instrument of substitution or transfer shall take effect till after the first avoidance of such ancient Parish Church, unless with the consent in writing of the actual Incumbent thereof, in which case such Incumbent shall be and is hereby declared to be to all intents and purposes the Rector, Vicar or Perpetual Curate, as the case may be, of the Church or Chapel, so constituted the Parish Church, instead of Rector, Vicar or Perpetual Curate of the former Parish Church, without any presentation, institution, induction, collation, or other form of law being had, observed or required: Provided also, That the Chancel (if any) of such former Parish Church shall continue to be repaired in such manner and by the same person or persons as are now by law or custom liable to the repairs thereof.

And be it further Enacted, That the Incumbent of such Parish next succeeding after such substitution and transfer as aforesaid, shall be and is hereby declared to be the Rector, Vicar or Perpetual Curate, as the case may be, of such Church so made the Parish Church as aforesaid; and that the person or persons who for the time being would have had a right of presenting, nominating or appointing the Incumbent to the former Parish Church, in case such transfer and substitution as aforesaid had not been made, shall thenceforth, in lieu thereof, when any vacancy occurs, have such and the like right of presenting, nominating or appointing the Incumbents of the Church so made the Parish Church as aforesaid, as he, she or they respectively would have had with respect to the former Parish Church.

14.
Incumbent
of former
Parish
Church to be
Incumbent of
the new
Parish
Church.

17 And be it further Enacted, That it shall be lawful for Her Majesty's said Commissioners, with the consent in writing of the Bishop of the Diocese, to make such provision under their common seal for the maintenance of the Minister and Clerk of the respective Churches as aforesaid, out of the Pew Rents of either of such Churches, as to
 490.

15.
Commis-
sioners may
provide for
maintenance
of Ministers
of such
Churches out
of the Pew
Rents.

Saving of
rights of Pew
Owners.

Her Majesty's said Commissioners shall seem expedient : Provided always, That nothing in this Act contained shall affect the rights of persons holding Pews free of rent by faculty or prescription in any such former Parish Church.

16.
This Act to
extend only
to England
and Wales,
Isle of Man,
&c.

And be it further Enacted, That this Act shall extend only to that part of the United Kingdom called England and Wales, and to the Isle of Man, and to the Islands of Guernsey, Jersey, Alderney and Sark.

Church Building Acts Amendment.

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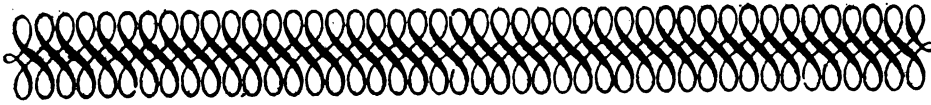
B I L L,

INTITLED,

AN ACT to amend and render more effectual
the Church Building Acts.

Ordered, by The House of Commons, to be Printed,
14 June 1838.

15 May 1838.—1 VICT.



A

B I L L

For facilitating the Sale of Church Patronage belonging to
Municipal Corporations in certain cases.

WH^{EREAS} by an Act passed in the Session of Parliament, holden in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," (as the same Act is altered by another Act passed in the then next Session of Parliament, intituled, "An Act for carrying into effect the Reports of the Commissioners appointed to consider the State of the Established Church in England and Wales, with reference to Ecclesiastical Duties and Revenues, so far as they relate to Episcopal Dioceses, Revenues and Patronage"), it is enacted, that in every case in which any Municipal Body Corporate, or any particular class, number, or description of members, or the governing body of such Body Corporate, is or are in their corporate capacity, and not as charitable trustees, seised or possessed of any manors, lands, tenements or hereditaments, whereunto any advowson or right of nomination or presentation to any benefice or ecclesiastical preferment is appendant or appurtenant, or of any advowson in gross, or hath or have any right or title to nominate or present to any benefice or ecclesiastical preferment, every such advowson and every such right of nomination and presentation shall be sold at such time and in such manner as the Ecclesiastical Commissioners for England may direct, so that the best price may be obtained for the same; and the Council of such Body Corporate is authorized and required, with the consent of the said Commissioners, to convey and assure, under the common seal of such Body Corporate, such advowson or such right of nomination or presentation to the purchaser or purchasers thereof:

Preamble :
5 & 6 W. 4.
c. 76. s. 139.

6 & 7 W. 4.
c. 77. s. 26.

391.

And

And whereas in some instances the manors, lands, tenements or hereditaments, whereof some Municipal Corporations are seised, were granted to them with an obligation to nominate, provide and sustain in certain churches or chapels able and fit Priests, Curates, Preachers or Ministers, for the performance and administration of ecclesiastical duties and rites therein, and for the cure of the souls of the parishioners and inhabitants of the parishes or places thereunto belonging; and although such Corporations have from time to time duly nominated and provided such Priests, Curates, Preachers or Ministers, and paid stipends for their sustenance, and have either provided houses for their residence, or made allowances in lieu thereof, yet such stipends and allowances have not been fixed or assured by any competent authority; and for want of any regular endowment or augmentation of such Curacies, they have not become Perpetual Cures or Benefices Presentative, and the Curates have not become Bodies Politic and Corporate, within the meaning of an Act passed in the first year of the reign of his Majesty King GEORGE the First, intituled, "An Act for making more effectual her late Majesty's gracious Intentions for augmenting the Maintenance of poor Clergy;" and of an Act passed in the thirty-sixth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for the further support and maintenance of Curates within the Church of England, and for making certain Regulations respecting the Appointment of such Curates, and the Admission of Persons to Cures augmented by Queen ANNE's Bounty, with respect to the Avoidance of other Benefices," by reason whereof doubts have arisen whether the right of nominating Ministers to such Churches and Chapels can be sold under the provisions of the said first hereinbefore recited Act, and it is expedient that such doubts should be removed;

1 G. 1. c. 10.
s. 54.

36 G. 3. c. 83.
s. 3.

1.
Right of
Nomination
vested in
Municipal
Corporation
may be sold.

BE it therefore Declared and Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT every right of nomination of every such Priest, Curate, Preacher or Minister, which, at the time of the passing of the first hereinbefore recited Act, was vested in any Municipal Corporation, shall and may be sold at such time and in such manner as the said Commissioners may direct, and shall by such conveyance or assurance as is in the said first recited Act mentioned, become vested in the purchaser thereof, his heirs and assigns; and that from and after such sale and assurance, every such Curacy, Preachership or Ministry shall become a Benefice Presentative, within the meaning of the said recited Act of the thirty-sixth year of the reign of King GEORGE the Third; and every such Curate, Preacher or

or Minister, and his successors for ever, shall become and be a Body Politic and Corporate within the meaning of the said recited Act of the first year of the reign of King GEORGE the First, and shall have perpetual succession, and shall be capable of taking and holding in
 5 perpetuity all such lands, tithes, tenements, hereditaments, monies, goods and chattels, as shall be granted unto or purchased for them respectively by the Governors of the Bounty of Queen ANNE, or by other persons contributing with the said Governors as benefactors; and every such purchaser, his heirs and assigns, may present to such
 10 benefice from time to time when and as the same shall become vacant, in the same manner, to all intents and purposes, as Patrons may now present to Benefices Presentative.

And be it Enacted, That, notwithstanding any such sale and conveyance as aforesaid, every such Corporation, and the property belonging thereto, shall continue liable to the same obligations (if any) of
 15 providing for and maintaining, or contributing to the maintenance, of any such Priest, Curate, Preacher or Minister, to which such Corporation and property would have been liable if no such sale and conveyance had taken place; and such liability (if any) may be enforced by the
 20 same means, at the instance of Her Majesty, Her heirs or successors, or otherwise, as if the first hereinbefore recited Act had not been passed, and the right of nominating such Priest, Curate, Preacher or Minister, had remained vested in such Corporation.

And be it Enacted, That this Act shall be deemed and taken to
 25 apply as well to Sales already made, and to Sales now in progress, as also to Sales which shall hereafter be made.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

2.
Notwithstanding Sale, Property liable to same obligations as previous thereto.

3.
Act to apply to previous, present and future Sales.

4.
Act may be amended or repealed during present Session.

Church Patronage (Corporations).

A

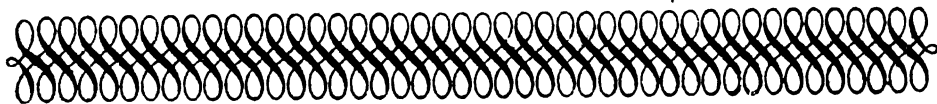
B I L L

For facilitating the Sale of Church Patronage
belonging to Municipal Corporations in
certain cases.

(Prepared and brought in by
Mr. Solicitor General & Mr. Attorney General.)

Ordered by The House of Commons, to be Printed,
16 May 1838.

14 December 1837.—1 VICT.



(Ireland.)

A

B I L L

To amend an Act passed in the Parliament of Ireland in the Tenth and Eleventh Years of His Majesty King CHARLES the First, for the Preservation of the Inheritance, Rights and Profits of Lands belonging to the Church and Persons Ecclesiastical.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~HEREAS~~ by an Act passed in the Parliament of Ireland, in the tenth and eleventh years of the reign of his Majesty King CHARLES the First, intituled, “An Act for the Preservation of the Inheritance, Rights and Profits of Lands belonging to the Church and Persons Ecclesiastical,” it was enacted, that all feoffments, gifts, grants, leases, alienations, conveyances, estates, charges and incumbrances made or to be made by any of the Archbishops, Bishops, Deans, Deans and Chapters, Archdeacons, Prebendaries, and other the Dignitaries Ecclesiastical, Parsons, Vicars, Masters and Governors, and Fellows of Colleges, and Masters, Guardians or other Governors of Hospitals in Ireland or any of them, of any Manors, Lands, Tenements or other Hereditaments, being any parcel of the possessions of any such Archbishop, Bishop, Dean, Dean and Chapter, Chapter, Prebend, Dignitary, Parson, Vicar, College, Cathedral or Collegiate Church or Hospital, or any ways belonging to the same or to any of them, except as therein mentioned, should be utterly void; and it was further enacted, that it should be lawful for the said Archbishops, Bishops, Deans, Chapters, Archdeacons, Prebendaries and other the said Dignitaries Ecclesiastical and their successors, and unto the said Masters and

Preamble:
10 & 11
Chas. 1, c. 3.
(Irish.)

41. A Governors,

Governors, and Fellows of Colleges and Hospitals, and to their successors or any of them, by the License of the Lord Deputy or other Chief Governor or Governors of the said kingdom, and the Council of State of the said kingdom for the time being, to make Leases for a longer term or time than One-and-twenty Years, of any their Lands or Grounds fit for the necessary building of castles, fortresses or other houses of strength as therein mentioned; and it was further enacted, that it should be lawful for any the Spiritual Persons, Colleges and Hospitals, in manner therein mentioned, to make any Lease or Leases for and during the term of Forty Years, of all or any their Houses belonging to their Churches, Colleges or Hospitals, and of the Curtilages appertaining to the same, which were situate within any City, Town Corporate or Market Town of the said kingdom, so as the same should be not of any their Mansion or Dwelling-houses, or of any part thereof, or of any the Curtilages, Gardens or Orchards belonging thereto :

3 & 4 Will. 4.
c. 37. (Church
Temporalities.)

s. 128.

And whereas by an Act passed in the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to alter and amend the Laws relating to Church Temporalities in Ireland," certain Commissioners were appointed for the execution of the said Act; and it was thereby enacted, that it should be lawful for any Tenant, Lessee or Lessees holding or who should hold under or by virtue of any Lease or Contract for term of Twenty-one Years or Three Lives, or for Three Lives or for term of Forty Years, immediately from and under any Archbishop or Bishop, or other sole Ecclesiastical Corporation in Ireland, any Lands, Premises or Hereditaments belonging to the respective Sees or other spiritual promotion or dignity of any such Archbishop or Bishop, or other sole Ecclesiastical Corporation, to purchase the fee-simple and inheritance of and in the said Lands, Premises and Hereditaments so held by him as aforesaid in the manner therein mentioned :

And whereas large tracts of Land and other Hereditaments are held under Leases for short terms, renewable on variable fines under the Masters, Governors and Fellows of Colleges, and Masters, Guardians and other Governors of Hospitals in Ireland :

And whereas the said last-recited Act contains no provisions by which Tenants or Lessees holding such last-mentioned Lands and Hereditaments can purchase the fee-simple thereof or any greater estate in such Lands and Hereditaments than is authorized to be acquired by the said first-recited Act :

And whereas it is expedient that the Tenants or Lessees of such last-mentioned Lands and Hereditaments should be enabled to acquire

acquire estates in fee-simple, or for terms of *Nine hundred and ninety-nine* Years therein, subject only to perpetual Rents, variable according to the average price of Corn, and to further conditional penal Rents, to be payable only in case such perpetual Rents shall
 5. not be punctually paid as hereinafter mentioned :

And whereas it is expedient that provision should be made for enabling the said Masters and Governors, and Fellows of Colleges, and Masters, Guardians or other Governors of Hospitals to create such estates, if they shall think fit so to do, and that the said Com-
 10 missioners should be appointed Commissioners for the execution of this Act ;

~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament
 15 assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, the said Commissioners for the execution of the said recited Act shall be and they are hereby constituted Commissioners for the execution of this Act.

1.
Commissioners of the Church Temporalities Act to be Commissioners of this Act.

And be it Enacted, That from and after the *passing of this Act*,
 20 it shall and may be lawful for any tenant or tenants, lessee or lessees holding, or who shall hold under or by virtue of any lease or contract for a term of years, or for a term of years and lives, or for lives or for any other term or interest, immediately from and under any Masters and Governors and Fellows, or Master, Governor and
 - 25 Fellows of any College, and any Masters, Guardians or other Governors, or Master, Guardian or other Governor of any College in Ireland, any lands or hereditaments belonging to any such College or Hospital, to acquire estates in fee-simple, or for terms of *Nine hundred and ninety-nine* Years with the consent of such Master,
 30 Governor and Fellows, or Master or Guardian, as the case may be, in such lands or hereditaments, in the manner and subject to the perpetual annual rents, and to the further conditional penal rents, and subject to the provisoes, restrictions, regulations and conditions hereinafter mentioned ; (that is to say) that it shall and may be lawful
 35 for any such tenant or lessee by notice in writing under his hand, to notify to the said Commissioners, and to the said Master, Governor and Fellows, or Master, Guardian or other Governor, as the case may be, under whom such lands or hereditaments are or shall be held,
 40 that he, such tenant or lessee, is ready and willing to acquire an estate in fee-simple, or for a term of *Nine hundred and ninety-nine* Years, as the case may be, in the said lands or hereditaments in the manner and pursuant to the provisions of this Act, and that there-
 upon the said Commissioners, upon such consent as aforesaid being

2.
Tenants under Colleges and Hospitals in Ireland to apply for a perpetuity in lands by notice to the Commissioners.

notified to them, by signing the certificate hereinafter mentioned, shall and may, and they are hereby authorized and required to ascertain the annual rents or rent now thereby reserved, or customarily payable by virtue of such lease or contract out of the said lands or hereditaments, and the amount of the sum or sums of money 5 theretofore paid or agreed to be paid as and for the fine or fines and fees for renewal of any such lease or interest of and in the said lands or hereditaments, in the case of leases usually renewed every or every alternate or every third year, for and during the period of *Seven Years* next preceding the service of such notice; and in case 10 of leases usually renewed at longer intervals, and in the case of leases for lives, for and during such period as shall include the three last previous occasions of such renewal; and such Masters, Governors and Fellows, and Masters and Guardians or other Governors, as the case may be, under whom the said lands or hereditaments shall be 15 held as aforesaid shall, if they shall think fit, but not otherwise, certify to the said Commissioners, by writing under the seal of the said Master, Governor and Fellows, or under the hands and seals of the said Masters and Guardians or other Governors, the amount of such annual rent, and every such fine or fines and fees so paid, or 20 agreed to be paid, or usually paid or payable as aforesaid, for and during such period as aforesaid; and that it shall and may be lawful for the said Commissioners, and they are hereby empowered, if they shall be required by requisition, under such seal or hands and seals as aforesaid, to issue a Commission under their seal, to inquire into 25 and ascertain the amount of such annual rent, and such renewal fine or fines and fees as aforesaid, so paid or payable, or agreed to be paid, or usually paid or payable as aforesaid, for and during the period aforesaid, which Commission shall issue in the same manner and subject to the like rules and regulations, with the like powers as 30 is and are in and by the said recited Act provided with respect to Commissions directed to be issued for inquiring into the annual value of Ecclesiastical Benefices.

3.
Commissioners, in ascertaining amount of annual Rent, shall not include any sum added thereto since the

Provided always, and be it Enacted, That it shall and may be lawful for the said Commissioners, and they are hereby empowered 35 and directed in each and every case in which they shall proceed to ascertain the amount of the annual Rent or Rents reserved and payable out of the lands or hereditaments in which the tenant, lessee or assignee thereof shall be desirous to acquire an estate in fee-simple or for a term of *Nine hundred and ninety-nine Years* as 40 aforesaid, to inquire and ascertain whether any and what addition has been made to the Rent or Rents reserved and payable to the said Master, Governors and Fellows, and Masters and Guardians or other Governor respectively, out of the said lands or hereditaments since the

and

and in case it shall appear that the said yearly Rent or Rents has or have been increased since such period, and that such increase has been made in consequence of the change of the liability to the payment of the composition for Tithes, then and in every such case the said Commissioners shall separate the sum or sums which shall so appear to have been added on the aforesaid account to the yearly Rent or Rents theretofore usually reserved and payable out of such lands or hereditaments, and shall not include such additional Sum or Rent in the calculation of the perpetual Rent to be reserved in respect of such customary Rent in any lease or conveyance of such lands or hereditaments to be executed pursuant to this Act; and the said Commissioners shall ascertain by reference to the lease or contract made next before the reservation of such additional Sum or Rent the annual and customary Rent or Rents (penal Rents or Sums in the nature of penal Rents excepted), reserved and payable out of the said lands or hereditaments, and such annual and customary Rent or Rents so ascertained shall be deemed and taken to be the customary annual Rent reserved and payable out of such lands or hereditaments, and the amount of such customary annual Rent, when ascertained by any of the ways and means aforesaid, shall be the amount of the annual perpetual Rent to be thereafter reserved and made payable in respect of the accustomed Rent out of the said lands or hereditaments to the said Master, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, and their successors respectively, in and by the deed of conveyance or lease hereinafter mentioned, subject only to such approval as hereinafter mentioned, and to such variation as may be made in the amount thereof according to the price of Wheat or Oats in any period of *Seven Years*, according to the provisions hereinafter mentioned.

Provided always, and be it Enacted, That whenever it shall appear that such renewal Fines and Fees have not been regularly paid during any such period as aforesaid, it shall and may be lawful for the said Commissioners under this Act, and they are hereby empowered and directed when they shall have received such certificate as aforesaid, by all or any of the ways or means aforesaid, to ascertain the amount of the annual or other renewal Fine or Fines and Fees which have been paid, agreed to be paid or payable, or which ought to have been paid in respect of the said lands or hereditaments for and during such period as aforesaid, according to the theretofore accustomed mode of renewing such lease or interest, and to take and estimate accordingly the yearly average of such annual or other Fine or Fines; and if it shall happen that no Fine or Fines have been paid or payable for renewing any such lease or interest as aforesaid for any such period, or any part of such

4.
Provision for
ascertaining
the amount
of renewal
Fines in cer-
tain cases.

period preceding the service of such notice as aforesaid, that then and in every such case it shall be lawful for the said Commissioners to take and estimate the yearly average of such renewal Fines and Fees according to such proportion of the improved yearly value as may by the custom pursued by the said Masters, Governors and 5 Fellows, and Masters and Guardians or other Governors respectively, under which the said lands or hereditaments are held, have determined the amount of Fines payable in respect of lands or hereditaments held thereunder by like tenure and demise (such improved yearly value to be ascertained by all such ways and means as the 10 said Commissioners shall think fit, or by the issuing of a Commission as last aforesaid, and subject to the like rules and regulations as such Commission last aforesaid), or by reference to all the circumstances of the case and to the amount of the tenant's beneficial interest in such lands and premises, according to their discretion, to 15 fix, ascertain and determine the yearly average of such renewal Fines and Fees.

5.
Fines to be
computed on
average
duration of
Lives.

Provided, and be it Enacted, That in the case of Leases for Lives, the said Commissioners under this Act shall compute the yearly average of the renewal Fines and Fees in such manner as to them 20 shall seem just, with reference to the average duration of lives and beneficial interests.

6.
Commission-
ers to estimate
the average of
renewal Fines,
and to declare
the amount
thereof to be
the amount of
the new per-
petual Rent to
be reserved in
respect of
Fines.

And be it Enacted, That when such Fine or Fines and Fees shall have been ascertained in any of the ways or means aforesaid, it shall and may be lawful for the said Commissioners, and they are 25 hereby directed to take and estimate the yearly average of the renewal Fine or Fines theretofore paid or agreed to be paid or payable as aforesaid, which yearly average of the said Fine or Fines and Fees, when so ascertained as aforesaid, shall be the amount of the annual perpetual Rent to be reserved and made payable out of such 30 lands or hereditaments in respect of Fines and Fees to the said Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid respectively, and their respective successors, in and by the conveyance or lease hereinafter mentioned, subject only to such approval as hereinafter mentioned, and to such 35 variation as may be made in the amount thereof, according to the price of Wheat or Oats in any period of *Seven* Years, according to the provision hereinafter contained.

7.
Notice to be
given to Mas-
ters, &c. by
Commission-
ers.

And be it Enacted, That when and so soon as the said two respective perpetual annual rents so to be thereafter reserved and 40 made payable in respect of accustomed rent and of fines and fees respectively out of the said lands or hereditaments to such Masters, Governors and Fellows, or Masters and Guardians or other Go-
vernors

Masters, Governors and Fellows, or Masters and Guardians or other
 Governors as aforesaid, as the case may be, of the said Notice or
 Certificate so delivered by the said Commissioners as aforesaid,
 specifying the amount of such several Rents to be reserved and
 made payable in and by the said Conveyance or Lease, such Masters, 5
 Governors and Fellows, or Masters and Guardians or other Governors
 as aforesaid, as the case may be, are respectively hereby required
 and directed to execute, seal and deliver a Deed of Conveyance of
 the fee-simple and inheritance, or a Lease for a term of *Nine hundred*
and ninety-nine Years, as may have been agreed upon, of the said 10
 lands or hereditaments to such Tenant or Lessee when the same
 shall be tendered for execution, subject to the said two several
 perpetual Rents so ascertained as aforesaid, and to a further penal
 Rent to the amount of *Ten* Pounds per centum per annum on the
 aggregate amount of such two first-mentioned Rents, but which penal 15
 Rent shall be reserved, payable only when and so often as any
 part of either of the said two first-mentioned Rents shall be in
 arrear or unpaid on the gale-day next after the gale-day on which
 the said two first-mentioned Rents accrued due; and if the said
 Masters, Governors and Fellows, or Masters and Guardians or other 20
 Governors aforesaid, having previously given such Certificate as
 aforesaid, as the case may be, shall on the production of such Notice
 or Certificate as aforesaid refuse or neglect to execute such Deed
 of Conveyance or Lease when tendered for execution as aforesaid
 for the space of *Two* calendar Months after such tender shall have 25
 been made as aforesaid, then upon satisfactory proof being made
 to the said Commissioners of such refusal or neglect, by affidavit to
 be sworn before any Judge, Surrogate, Vicar-General, Master or
 Master Extraordinary in Chancery, or Justice of the Peace, which
 affidavit or oath they are hereby respectively empowered to take or 30
 administer, or upon oath of a credible witness to be examined by
 the said Commissioners, it shall and may be lawful for the said
 Commissioners and they are hereby empowered and required to
 execute, seal and deliver the said Deed or Deeds of Conveyance, or
 Lease or Leases, in the name of and on behalf of the said Masters, 35
 Governors and Fellows, and Masters and Guardians or other
 Governors, as the case may be, so refusing or neglecting to execute
 the same as aforesaid, and to affix the corporate seal of the said
 Commissioners to such Deed or Deeds, or Lease or Leases, and to
 certify the cause of their so executing the same by writing at the
 foot of or on the back of the said Deed or Deeds, or Lease or Leases; 40
 and such execution of the said Deed or Deeds, or Lease or Leases,
 by the said Commissioners shall be as valid and effectual to all
 intents and purposes whatsoever, as if the said Deed or Deeds, or
 Lease or Leases, had been duly executed by the said Masters,
 Governors and Fellows, and Masters and Guardians or other
 Governors, as the case may be, in pursuance of this Act.

Provided

Provided always, and be it Enacted, that the Recitals in any such Deed of Conveyance or Lease shall for all purposes whatsoever be deemed conclusive evidence of the truth of the facts therein stated.

9.
Recitals in
Deeds of Con-
veyance con-
clusive.

5 Provided always, and be it Enacted, That the whole of the per-
petual annual Rent which shall in any case be reserved and accrued
due under the provisions of this Act out of any lands or heredita-
ments in respect of accustomed Rent, together with a proportionate
part of the said penal Rent which shall accrue due and be payable
and shall be received, shall be and the same is hereby required and
10 directed to be applicable to the same uses and for the same intents,
ends and purposes to and for which such accustomed Rent was
heretofore applicable; and that the whole of the said Rent which
shall in any case be reserved and accrue due under the provisions of this
Act in respect of renewal fines or fees, together with a proportionate
15 part of the said penal Rent which shall accrue due and be payable
and shall be received, shall be and the same are hereby required
and directed to be applicable to the same uses, and for the same
intents, ends and purposes to and for which such fines or fees were
heretofore applicable.

10.
Application
of Rents, &c.

20 Provided always, and be it Enacted, That the said Commis-
sioners shall and they are hereby directed, at the request of either
party, to insert or cause to be inserted in each and every the said
deed or deeds of conveyance, or leases or lease, a statement of the
average price of Wheat or Oats (whichever of the two they shall
25 consider as the Corn principally grown in the county or district
where such lands are situate) for the period of *Ten* Years imme-
diately preceding the *First* day of *May* next, before the service of
such notice by such tenant or lessee as aforesaid, calculated upon
the returns advertised in the Dublin Gazette during such period of
30 *Ten* Years, which average price the said Commissioners are hereby
required and empowered to calculate and ascertain from such returns
as aforesaid.

11.
The average
price of Corn,
for Ten Years
previous, to be
inserted in the
Conveyance.

35 Provided always, and be it Enacted, That the said tenant
or lessee so acquiring an estate in fee-simple, or for a term of *Nine*
hundred and ninety-nine Years, in any lands or hereditaments as
aforesaid, shall seal and deliver a Counterpart or Counterparts of
such deed or deeds of conveyance, or leases or lease, one part whereof
shall be delivered to the said Masters, Governors and Fellows, or
Masters and Guardians or other Governors as aforesaid, as the case
40 may be, to whom respectively the said annual rents shall be so
reserved and made payable as aforesaid.

12.
A Counterpart
to be executed
and delivered
to the Masters,
&c.

41.

B

And

13.
Deeds and
Certificate to
be inrolled.

And provided also, and be it Enacted, That the said Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid, as the case may be, shall in every case of such conveyance or lease being executed, cause such deed or deeds of conveyance, or leases or lease to be inrolled in the Rolls Office of the High Court of Chancery in Ireland (for which inrolment a fee of *Two Shillings and Sixpence* only shall be demanded or paid); and the said Commissioners shall in every such case cause a Certificate specifying the amount of the annual accustomed rent, and of the average renewal fine theretofore paid or payable on the several occasions of renewing the lease in the said lands or hereditaments during such period as aforesaid, to be inrolled in the Rolls Office of the High Court of Chancery in Ireland, along with and annexed to the inrolment of the said deed or deeds, or lease or leases; an attested and compared copy of which Certificate, when inrolled in the said Rolls Office as aforesaid, shall be and be deemed and taken to be conclusive evidence of the truth of the several matters and things therein contained as aforesaid.

14.
Tenants not
entitled to
Perpetuity,
unless in pos-
session of
fully renewed
Leases, or
unless all
renewal Fines
are paid.

Provided always, and be it Enacted, That no tenant or lessee as aforesaid shall be entitled to have any such conveyance of the fee-simple, or any lease for a term of *Nine hundred and ninety-nine* Years to be made or granted to him or her, of whose lease, if holding by lease for the term of *Twenty-one* Years, *Twenty* Years shall not be then to come and unexpired, or if holding by lease for the term of *Forty* Years, whereof *Thirty-nine* Years shall not be then to come and unexpired, or if holding by lease for *Twenty-one* Years or *Three* Lives, or for *Three* Lives, all the lives named wherein shall not be then in being, unless he or she shall, previous to the execution of such deed of conveyance or lease, pay all and every the renewal fines customarily paid or payable on and for the renewal of such lease; nor shall any such tenant or lessee be entitled to such conveyance of the fee-simple, or to such lease for a term of *Nine hundred and ninety-nine* Years, unless all rent and arrears of rent due upon and reserved by such lease shall have been fully paid and satisfied.

Arrears of
Rent to be
also paid up.

15.
Applications
may be made
every Seven
Years for
variation of
new reserved
Rent, accord-
ing to increase
or decrease in
price of Corn.

And be it Enacted, That it shall and may be lawful for such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid, as the case may be, or such tenant or lessee so acquiring an estate in fee or for a term of *Nine hundred and ninety-nine* Years, his heirs, executors or administrators; or appointees or assigns, by whom the Rents reserved by the said deed of conveyance or lease shall be payable, to make an application in writing to the said Commissioners, at any time within *Four* Months after the expiration of *Seven* Years, to be computed from the *First* day

day of *May* next preceding the execution of such deed of conveyance or lease as aforesaid, and in like manner at any time within *Four Months* after the expiration of every subsequent period of *Seven Years*, such periods to be computed each from the termination of the preceding period during the continuance of such grant or term as aforesaid, signifying the desire of such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid (as the case may be), or tenant or lessee, his heirs, executors or administrators, or appointees or assigns, to have the average price of Wheat or Oats for the *Seven Years* preceding inquired of and ascertained, in order that the annual Rent reserved in and made payable by such deed of conveyance or lease may be varied or increased or diminished for the ensuing *Seven Years*, in proportion to such average price; of which application due notice in writing shall be given to such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid (as the case may be), or tenant or lessee, his heirs, executors or administrators, or appointees or assigns as aforesaid, as the case may require; and thereupon in each and every of such cases it shall and may be lawful for the said Commissioners to ascertain the average price of Wheat or Oats for the term of *Seven Years* next preceding the *First day of May* next before such application or the service of such notice, and for that purpose to nominate and appoint a person to be Arbitrator for ascertaining the same accordingly; and such Arbitrator is hereby authorized and required, from the *Dublin Gazette*, to ascertain the price of a barrel of Wheat or Oats, upon the average of such term of *Seven Years* preceding, and to state and set forth such average price by his report in writing, under his hand, to be delivered to the said Commissioners; and if it shall appear that the average price of Wheat (when Wheat shall be taken as the measure of such Rent), or that the average price of Oats (when Oats shall be taken as the measure of such Rent), for such *Seven Years* preceding, is more or less by *One-tenth* than the average price thereof set forth in the deed or deeds of conveyance, or lease or leases, then and in such case the amount of such two several annual Rents to be paid out of or in respect of the said lands or hereditaments to such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid (as the case may be), shall be increased or diminished by the said Commissioners, in such manner and to such extent that the amount of such two several annual Rents payable for and during the next ensuing *Seven Years* shall bear the like proportion to the respective amounts of the annual Rents reserved and made payable out of the said lands or hereditaments, in such original deed of conveyance or lease, as the average price of Wheat or Oats, ascertained at the time of such application, shall bear to the average price thereof set forth in such original deed of conveyance or lease;

and the said Commissioners under this Act shall thereupon, for the
 purpose of inrolment, as hereinafter mentioned, execute a Certi-
 ficate, under their seal, setting forth the amount of such revised or
 new annual Rents to be paid and payable out of the said lands or
 hereditaments to such Masters, Governors and Fellows, or Masters 5
 and Guardians or other Governors as aforesaid, as the case may be,
 and cause notice of or a copy of the said Certificate to be given to
 or served upon such Masters, Governors and Fellows, or Masters
 and Guardians or other Governors as aforesaid, and person who
 shall have acquired an estate in fee-simple or for a term of *Nine* 10
hundred and ninety-nine Years in the said lands or hereditaments, or
 to the person or persons who shall have become possessed of his or
 their estate or interest therein, and shall also cause such Certificate
 to be inrolled in the Rolls Office of the High Court of Chancery,
 along with and annexed to the inrolment of such deed of con- 15
 veyance or lease; and a copy of such inrolment, duly compared and
 attested, shall be conclusive evidence of the amount of such revised
 and new annual Rents; and such revised and new annual Rents shall
 be paid to and received by such Masters, Governors and Fellows, or
 Masters and Guardians or other Governors as aforesaid, as the case 20
 may be, for *Seven* Years from and after the *First* day of *May* next
 before the service of such notice, and until such revised and new
 annual Rents shall afterwards, upon a like application, be again
 varied and ascertained, according to the average price of Wheat or
 Oats during the term of *Seven* Years then last past; and the several 25
 parties aforesaid are hereby respectively authorized to make such
 further application from time to time, after the expiration of every
Seven Years, during the continuance of such grant or term in such
 and the like manner and form as hereinbefore directed with respect
 to the first application, and the costs, charges and expenses of every 30
 such application, and of varying and re-ascertaining the amount of
 such annual Rent, shall be defrayed by the person or persons who
 shall make such application as aforesaid; and any such revised and
 new annual Rents shall, during the period when it shall be so in force,
 stand in the place of the said original Rents reserved and made pay- 35
 able out of the said lands or hereditaments, upon such conveyance
 of the said lands or hereditaments, and shall be paid and recover-
 able, and charged and chargeable, upon the said lands or heredi-
 taments; and the party entitled to the said estate in fee-simple or
 for a term of *Nine hundred and ninety-nine* Years therein, his heirs, 40
 executors or administrators, or appointees or assigns, in like manner
 as the said original Rents reserved in and by such deed of conveyance
 or lease, and subject to the same regulations and the several clauses
 and provisions hereof, shall in every such case apply as fully and
 effectually to any such revised and new annual Rents, to all intents
 and purposes, as if such revised and new annual Rents were the
 annual

annual Rents originally reserved in and by the deed or deeds of conveyance, or lease or leases of the said lands or hereditaments: Provided always, That the said Rents so reserved by such original deed of conveyance or lease shall continue to be used as the standard by reference to which, together with the original price of Wheat or Oats, the Rent is from time to time to be varied as aforesaid: Provided also, That in case such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid (as the case may be), or such tenant, assignee or owner of such lands or hereditaments, who would respectively be entitled to receive or liable to pay such revised or new annual Rents as aforesaid, shall be dissatisfied with or dispute the amount of the average price of Corn so ascertained as aforesaid, or the amount of any such revised and new annual Rents ascertained as aforesaid, it shall be lawful for such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid (as the case may be), or such tenant, assignee or owner of such lands or hereditaments, within *One* calendar Month after being served with such notice as aforesaid, to apply by petition to such Court, in such manner and under and subject to such regulations and provisions as hereinafter mentioned with respect to disputes between superior and under-tenants or lessees; and if the amounts of such revised and new annual Rents shall be varied by the said Court, upon such petition, from the amounts thereof ascertained by the said Commissioners, then the amounts thereof, so ascertained and adjudged by the said Court, shall be the annual Rents of the said lands and premises for such period as aforesaid, and subject to the provisions and regulations aforesaid, as to such revised and new annual Rents, and shall be inserted in such Certificate, to be inrolled as aforesaid, instead of the revised and new annual Rents ascertained by the said Commissioners as aforesaid, and stand in the place of the same, to all intents and purposes; provided that any party or person so petitioning, and failing in such petition, shall pay all the costs in relation thereto.

And be it Enacted, That in all cases of applications for the acquisition of an estate in fee, or for a term of *Nine hundred and ninety-nine* Years, in any lands or hereditaments under this Act, the applicant shall deposit or secure, in such manner as the said Commissioners shall appoint, such sum of money as the said Commissioners shall think necessary to defray the expenses which the said Commissioners may incur in ascertaining the terms on which such estate shall be acquired; and such expenses as aforesaid shall be deducted from and out of the money so deposited or secured, and the surplus, if any, refunded to such applicant.

16.
On application to acquire Perpetuities, applicant to deposit a sum to defray expenses of ascertaining terms.

17.
Remedies for
recovery of
reserved
Rents.

And be it Enacted, That the said two several annual Rents so reserved and made payable by any such tenant or lessee or grantee out of or in respect of any such lands or hereditaments, together with the said conditional penal Rent, when the same shall be payable in any such deed or deeds of conveyance, or lease or leases, and every such revised and new annual Rents as aforesaid shall be recovered and recoverable by such Masters, Governors and Fellows, or Masters and Guardians or other Governors and their respective successors, as the case may be, by all or any of the ways, means or remedies which, according to any law or statute now in force in Ireland, or hereafter to be made, is or are or shall be provided for the recovery of any rent service upon any lease for life or for years executed by any landlord or person seised in fee-simple, and subject to all the like rules and regulations by statute or otherwise, any law, usage or custom to the contrary notwithstanding: Provided always, That if in any action of ejectment to be brought on account of the non-payment of any such annual Rents, pursuant to the statutes in force in Ireland as to non-payment of Rent, judgment shall be had and given for the Plaintiff in such action, and execution shall have been executed, and such tenant, lessee or grantee who shall have so acquired an estate in fee-simple or for a term of *Nine hundred and ninety-nine* Years as aforesaid of and in such lands or hereditaments, his assignee or assignees, or the person or persons who shall be then entitled to his estate or interest therein, shall not within *Six Months* from the time of such execution executed do such act or acts, or take such proceedings as are or shall be by law necessary for the redemption of the said lands or hereditaments from the said judgment and execution, pursuant to the said statutes, then and in every such case it shall and may be lawful for any tenant, under-tenant or owner of any derivative lease, estate or interest in the said lands or hereditaments, his assignee or assignees, within *Nine Months* after such execution executed, to do such act or acts, or take such proceedings for the redemption of the said lands or tenements from the said judgment and execution and for obtaining relief in respect of the same, as under the said recited statutes any mortgagee of a lease might do or take for the redemption of the said lease, or his estate or interest therein, from any judgment and execution in any action of ejectment for non-payment of Rent pursuant to the said statutes, and for obtaining relief in respect of the same, and with the like effect to all intents and purposes; and after such redemption the sum or sums of money so paid or advanced for or on account of such redemption and the costs thereof, shall be and be deemed a lien and charge upon such estate or interest of such tenant or person so failing or neglecting to pay the same, or to take such proceedings for such redemption as aforesaid, and shall be payable, with interest, to

to such person who shall have so paid or advanced such sum or sums, or obtained such redemption, or the same shall be recoverable by him (at his election) from such person so failing or neglecting as aforesaid, in and by any action of debt.

- 5 And be it Enacted, That it shall and may be lawful for any owner or lessee, his heirs, executors or administrators or appointees or assigns, at any time after the *passing of this Act*, upon a division of the lands or premises held by him or them, either by sale or otherwise (except by lease or demise at rack-rent), to make an application
- 10 in writing to the said Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, under whom he or they shall then hold the said lands or hereditaments, signifying the desire of such applicant that the yearly Rents then charged or to be charged on the said lands or hereditaments by such deed of
- 15 conveyance or lease as aforesaid, shall be divided and apportioned upon parts of the said lands or hereditaments only, and thereupon, in each and every such cases, such Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, shall and they are hereby authorized and required to divide or
- 20 apportion the whole or any part of the said yearly Rents as aforesaid in such manner and proportions as by such applicant may be required, regard being had to the security of the several parts or proportions of the said yearly Rents; and in case of any disagreement in respect of such apportionment, then the same shall be made by
- 25 one or more valuers, to be in all cases nominated by the said Commissioners, and the expense of such apportionment shall be in all cases defrayed by the party applying for the same, and such Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, or in case of such disagree-
- 30 ment as aforesaid, such valuator or valuers shall declare what parts and proportions of the said yearly Rents respectively shall in future be severally charged upon any part or parts of the said lands and hereditaments, and shall state the names and denominations, the number of acres and the metes and bounds of each portion, and the
- 35 amount of Rent to be reserved and made payable out of each such portion respectively; and after every such apportionment, the yearly Rents or Sums so apportioned shall be reserved and be made and be payable in such parts and proportions and chargeable only upon such proportions of the said lands or hereditaments as shall be so
- 40 declared to be liable to the payment thereof respectively; and in case the said apportionment shall be made before the execution of a conveyance of the fee-simple or of a lease for *Nine hundred and ninety-nine* Years pursuant to this Act, then and in every such case it shall and may be lawful for such Masters, Governors and Fellows, or Masters and Guardians or other Governors (as the case may be),

18.

Upon application of Owner, the Masters, &c. may apportion the yearly Rent then charged on Lands on parts of such Lands only.

or Commissioners, to execute separate conveyances or leases in the manner hereinbefore directed for executing conveyances and leases of each such part or proportion of the said lands or hereditaments, subject only to the proportionate Rents payable in respect thereof; and in case a conveyance or lease shall have been made or executed by such Masters, Governors and Fellows, or Masters and Guardians or other Governors (as the case may be), or the said Commissioners, of the said lands or hereditaments, then and in every such case the said Masters, Governors and Fellows, or Masters and Guardians or other Governors (as the case may be), or such Commissioners, shall execute under his or their respective seals a Certificate setting forth the said apportionment and the amounts of the Rents to be charged or chargeable upon each portion of the said lands or hereditaments, and shall cause the same to be inrolled in the Rolls Office of the High Court of Chancery, along with and annexed to the inrolment of the deed of conveyance or lease of such lands or hereditaments as aforesaid; and after such inrolment of such certificate, the said lands or hereditaments shall thenceforward stand and be charged and chargeable with the said yearly rents in such parts and proportions only and in such manner as shall be specified in such Certificate; and a copy of such inrolment, duly compared and attested, shall be conclusive evidence of the amount of rents with which each respective portion of the said lands and premises stands charged and chargeable.

19.
Lands comprised in new Conveyances or Leases to be settled to former uses.

And be it Enacted, That immediately upon the execution of such deed of conveyance, or lease as aforesaid, of the said lands or hereditaments under the provisions of this Act, the said lands or hereditaments in the said deed of conveyance or lease mentioned, and the estates or interests thereby so granted or created, shall thereupon respectively go to and be vested in, settled upon and enjoyed by the same person or persons for the like estate, estates or interests, and to and upon the same uses, trusts, intents and purposes respectively, or as near thereto as the nature of each case and the difference of interest will admit, as the said lands or hereditaments stood settled or limited to, for or upon, or such of them as at the time of making such conveyance or lease shall be existing undetermined and capable of taking effect: Provided always, That the execution of such deed of conveyance of lease as aforesaid shall operate as, and be and be deemed to be to all intents and purposes, a surrender of all and every the then previously subsisting term or terms of years, estate or interest in the said lands or hereditaments derived from or under such Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, and the same and every of them shall thenceforth cease, determine and be for ever extinguished.

And

20.

Tenant ac-
quiring Per-
petuity shall
renew to in-
ferior Tenants
when bound
by toties
quoties Cove-
nant.

And be it Enacted, That whenever any such tenant or lessee who shall have acquired as aforesaid an estate in fee-simple or for a term of *Nine hundred and ninety-nine* Years in such lands or hereditaments previously held by him as immediate and superior tenant,
 5 under such Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, shall, by virtue of any lease, covenant or contract theretofore made or entered into, be bound to renew to any other person or persons any lease of any such lands or hereditaments, either as often as such Masters,
 10 Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, respectively, shall renew the lease of such lands or hereditaments to him, such immediate superior tenant, or in any other manner, then and in every such case the conveyance of the fee-simple, or the creation of a term of *Nine hundred and ninety-*
 15 *nine* Years as aforesaid, of and in the said lands or hereditaments as aforesaid, to such immediate and superior tenant (or the payment from time to time of the annual Rents out of the said lands or hereditaments to the said Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, respectively), shall
 20 (so long as the said estate or interest thereby granted shall continue) in all Courts of Law and Equity, and to all intents and purposes whatsoever, as to such under-tenant or inferior tenant or person or persons having any such derivative estate or interest, and being entitled to the benefit of such covenant or contract for renewal, and
 25 as to all other derivative estates or interests in the said lands or hereditaments dependent upon such covenant, contract or agreement for renewal, be and be deemed, taken and construed to be a renewal by such Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, from time to time of the lease
 30 of such immediate and superior tenant for the purposes of and within the true intent and meaning of such covenant, contract or agreement for renewal as aforesaid.

21.

Fines payable
by inferior
Tenants, how
ascertained.

And be it Enacted, That when the Fine to be paid upon the execution of any such renewal as before mentioned, shall have
 35 been by such covenant, contract or agreement for renewal agreed to be a certain or ascertained proportion of or dependent upon the amount of the renewal Fine to be paid by the immediate superior tenant of such lands to such Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid, as the case
 40 may be, then and in such case upon and after the acquisition of such estate in fee-simple or for a term of *Nine hundred and ninety-nine* Years in the said lands or hereditaments as aforesaid, the amount of such proportion of such renewal Fine, payable by such under or inferior tenant, shall be ascertained by reference to the amount of the average renewal Fine payable previously to the said acquisition

41.

c

of

of the said estate as appearing in the Certificate of the said Commissioners inrolled in the Rolls Office of the Court of Chancery as aforesaid, ascertaining the amount of the average renewal Fine payable by the immediate superior tenant of the said lands previously to such acquisition of the said estate in fee-simple, or for a term of *Nine hundred and ninety-nine* Years therein as aforesaid, and in no other manner whatsoever. 5

22.
Fine for Renewal, to be ascertained according to average price of Wheat or Oats.

Provided always, and be it Enacted, That such Fine to be paid upon the execution of any such Renewal as aforesaid, shall be subject to such variation as may be made in the amount thereof, according to the price of Wheat or Oats in any period of *Seven* Years, according to the provisions hereinbefore contained, such variation to be applied for and ascertained in the like manner and subject to like regulations, so far as the same are applicable, as hereinbefore provided in respect of the variation of the new Rents to be reserved under this Act. 10 15

23.
Disputes between superior Tenants and others, how to be determined.

And be it Enacted, That it shall and may be lawful for any such immediate superior tenant of the said lands under such Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, or for any under or inferior tenant or other person as aforesaid, having or claiming any derivative estate or interest in any of the said lands or hereditaments, immediately or mediately from, through or under such superior tenant, under or by virtue of any lease or contract containing a covenant or agreement for renewal in case any dispute or difference shall arise between them, or any of them respectively, as to the variation of any fine as hereinbefore provided, according to the price of Wheat or Oats, to present a petition to the High Court of Chancery or Court of Exchequer in Ireland, stating the premises respectively, as the case may be, and praying the proper or necessary relief in relation to the said matter, whereupon it shall and may be lawful for such Court, without requiring proof of any notice of such petition being given to or served upon any person or persons, to make an order referring the matter of such petition to one of the Masters of the Court of Chancery, or to the Chief Remembrancer of the Court of Exchequer, as the case may be, directing such Master or Chief Remembrancer to inquire and report concerning the said matter as such Court shall direct; and thereupon it shall and may be lawful for the said Master or Chief Remembrancer, as the case may be, to summon before him any of the said parties, or any person or persons, and to examine him or them upon oath, respecting such matter so referred to him, and upon appearance of or proof of service of notice of such petition and order upon any such person or persons to be affected by such petition, to inquire and 35 40 and

and make his report concerning the said matter so referred to him as in other cases of references to any such Master or Chief Remembrancer under the orders of such respective Courts to which report of such Master or Chief Remembrancer it shall be lawful for any of the said parties to the said Petition, or to be affected by it, to take an exception or exceptions, as in other cases of exceptions taken to any reports of such Master or Chief Remembrancer, and upon the hearing of such report, when not excepted to, or upon the hearing of such exceptions to such report, when any such shall have been taken thereto, it shall and may be lawful for such Court to make such order in relation to the said matter as the said Court shall think fit; and such order of such Court shall be final and conclusive, and without any appeal therefrom; and the said Court may order the costs of any such proceedings in relation to the said petition to be paid by or to any of the said parties respectively as the said Court shall think fit; which said order or orders shall and may be served, either in the manner hereinafter provided, or in such other manner as the said Court shall think fit to direct.

20 And be it Enacted, That if any such person or persons having or claiming any such derivative estate or interest in such lands or hereditaments, by virtue of any lease or contract containing any such covenant or agreement for renewal, who, being so served with any such Order of such Court as aforesaid, shall neglect or refuse to
25 comply with the terms of such Order for or during the period of *Three* calendar Months from the time of the service of such Order as aforesaid, every such person so neglecting or refusing to comply with such Order as aforesaid, his, her or their heirs, executors, administrators and assigns, and all other persons claiming under him,
30 or claiming any benefit or interest under any such respective lease or contract containing such covenant or agreement for renewal, shall for ever thereafter be barred of and from all right, benefit and advantage in law or equity, in, of and from such covenant or agreement for renewal, or to obtain any new lease of the said lands and
35 hereditaments respectively, and every such person or persons, his or their heirs, executors, administrators and assigns, and all persons claiming any benefit of such respective covenant or agreement for renewal shall be thenceforth for ever barred from all relief in any Court of Law or Equity, in respect of any such covenant or agree-
40 ment for renewal: Provided always, That any such Order of any such Court as aforesaid shall and may be enforced by any of the ways or means by which any Order pronounced by such Court in any suit in equity, upon a bill filed, may be enforced, save only as against any person or persons who, being entitled to any such

24.
Persons
having deriva-
tive Estates,
and failing to
obey Order,
shall forfeit
right of Re-
newal.

derivative estate or interest as aforesaid, shall have by notice in writing declined or refused to take or accept any renewal of such estate or interest.

25.
Provision for
cases of inca-
pacitated
persons, and
those under
disability.

And be it Enacted, That it shall and may be lawful for all bodies politic, corporate and collegiate, corporations aggregate or sole, and 5 all guilds, fraternities and brotherhoods, whether corporate or not corporate, and all trustees for charities or other public purposes, and all joint-stock companies who are or shall be possessed of any estate or interest in any such lands or hereditaments belonging to such Masters, Governors and Fellows, or Masters and Guardians 10 or other Governors, as the case may be, respectively, and also for any committee or curator of any idiot or lunatic, or of any person non compos mentis, and for any guardian of any infant, or for any person authorized to act for any incapacitated person (which idiot, lunatic, non compos mentis infant or incapacitated person shall be possessed 15 of or entitled to any estate or interest in any of the said lands or hereditaments in the same manner as such persons might have done if not under any incapacity), and also for all trustees of any such lands or hereditaments on behalf of the persons for whom they shall be trustees, and also for all persons having a limited interest in 20 possession in any of such lands or hereditaments as tenants for life, or such like limited estate, to make, do or execute all matters, acts and things necessary or proper for the due compliance with the provisions or executing the powers hereof in any respect as to any such lands in the same, or in like manner, as nearly as the nature 25 of each case will admit, as fully and effectually to all intents and purposes, and subject to all the same rules and regulations as under the provisions hereof any person of full age, being solely or absolutely possessed of or entitled for his own use to any lease of any such lands, or any derivative estate or interest therein, might or could 30 make, do or execute the same or any of them under the provisions of this Act; and that whenever in any of the provisions of this Act relating to any such lands, in describing any Masters, Governors and Fellows, or Masters and Guardians or other Governors, or any tenant or other person, a word importing the singular number or 35 the masculine gender only be used, the same shall be understood to include and be applied to several persons as well as one person, and females as well as males, and to such bodies politic, corporate or collegiate as aforesaid, and to such corporations aggregate or sole, guilds, fraternities or brotherhoods corporate or not corporate, 40 trustees for charities or other public purposes, and trustees for any person or persons, as well as to individuals; and that the words "Masters, Governors and Fellows, or Masters and Guardians or other Governors," and to the Trustees of any school, shall extend as well to

Definition of
Terms in this
Act.

to any person or persons, body corporate, politic or collegiate, or other body of persons entitled to receive any Rent out of any such lands or hereditaments as to persons usually or legally designated by such word; and that the word "Tenant" shall extend as well to
 5 any person or persons, body politic, corporate or collegiate, or other body of persons who shall be bound to pay any Rent out of any of such lands or hereditaments, as to persons usually or legally designated by such word, unless in any of the foregoing cases there be something in the subject or context repugnant to such con-
 10 struction.

And be it Enacted, That it shall and may be lawful for the said Masters, Governors and Fellows, or Masters and Guardians or other Governors as aforesaid, as the case may be, respectively, in any lease or demise of any lands or hereditaments to be made by them
 15 respectively, after the *passing of this Act*, to separate any additional Rent or Sum reserved in consequence of the change in the liability to the payment of composition for tithes in any lease or demise of any such lands or hereditaments made by him or them since the
 from the
 20 former and customary annual Rent or Rents theretofore reserved and payable out of such lands or hereditaments, and to reserve such former and customary annual Rent or Rents in any new lease or demise to be made thereof by him or them after the *passing of this Act*.

And be it Enacted, That no lease or demise of any lands or hereditaments to be made by the said Masters, Governors and Fellows, or Masters and Guardians or other Governors, as the case may be, respectively, after the *passing of this Act*, shall be deemed or taken
 25 to be a letting, setting or demising of any lands or hereditaments within the meaning of an Act passed in the second and third years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend three Acts passed respectively in the fourth, fifth and in the seventh and eighth years of the reign of his Majesty King GEORGE the Fourth, providing for the establishing of
 30 Composition for Tithes in Ireland, and to make such Compositions permanent, so as to entitle the Lessee or Tenant thereof to hold the said Lands or Hereditaments free from the Payment of Tithes or Composition for Tithes."

And be it Enacted, That whenever any Notice required to be
 40 given by this Act, or whenever any service of any Order or other proceeding of any Court which shall be required or be necessary for carrying into effect any of the provisions of this Act, cannot be given or delivered to, or cannot be effected upon the party or person or

26.
 Masters, &c., in any Lease made after passing of this Act, shall reserve former annual Rent, only excluding any Sum added thereto since

27.
 No Lease made by the Masters, &c., after the passing of this Act, shall be deemed a Lease within the meaning of 2 & 3 Will. 4, c. 119, so as to entitle Tenant to hold Lands tithe free.

28.
 Notices under this Act, how to be served.

persons to or for whom such Notice is directed or intended, or upon whom such service is to be effected, it shall be sufficient for the party or person obliged to give such Notice or effect such service to leave such Notice or a Copy of such Order or proceeding at the last or most usual place of abode of such party or person or persons to or upon whom such Notice is to be given or service effected, if the same shall be within Ireland; and if the same shall not be within Ireland, then to serve such Notice or such Copy upon the agent or receiver of the rents of such party or person or persons; and if such agent or receiver cannot be discovered, then it shall be sufficient to publish such Notice or to give notice of such Order or proceeding by publishing notice thereof *Three* times in the Dublin Gazette, and also to give such Notice to or make such service upon any principal occupier of any of the said lands and premises respectively to which such Notice, Order or proceeding shall relate. 5 10 15

29.
Power of
Commissioners to
examine on
Oath.

And be it Enacted, That the said Commissioners shall have power and authority, and are hereby empowered and authorized from time to time to administer an Oath to any person or persons who shall at any time give them information or be examined of or concerning any matter or thing relating to the execution of this Act, or any way concerning the several powers and trusts in them hereby reposed, and the due execution thereof. 20

30.
Act may be
altered.

And be it further Enacted, That this Act may be altered, amended or repealed by any Act to be passed in this present Session of Parliament.

Church Property.

(Ireland.)

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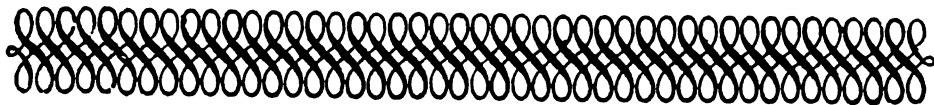
B I L L

To amend an Act passed in the Parliament of Ireland in the Tenth and Eleventh Years of his Majesty King CHARLES the First, for the Preservation of the Inheritance, Rights and Profits of Lands belonging to the Church and Persons Ecclesiastical.

(Prepared and brought in by
Mr. Mahony and Mr. David Roche.)

*Ordered, by The House of Commons, to be Printed,
14 December 1837.*

12 December 1837.—1 VICT.



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B I L L

For the Support of Her Majesty's Household, and of the
Honour and Dignity of the Crown of the United Kingdom
of Great Britain and Ireland.

[Note.—The Words and Figures printed in *Italics* are proposed to
be inserted in the Committee.]

MOST GRACIOUS SOVEREIGN,

WH **E**R **E**A **S** an Act was passed in the Parliament of Great Britain in the first year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the Support of his Majesty's Household, and of the Honour and Dignity of the Crown of Great Britain;" and another Act was passed in the twenty-second year of the reign of his said late Majesty, intituled, "An Act for enabling his Majesty to discharge the Debt contracted upon his Civil List Revenues, and for preventing the same from being in arrear for the future, by regulating the mode of Payments out of the said Revenues, and by suppressing or regulating certain Offices therein mentioned, which are now paid out of the Revenues of the Civil List;" and another Act was passed in the twenty-fifth year of the reign of his said late Majesty, intituled, "An Act to authorize the Lord Steward of the Household, the Lord Chamberlain, the Master of the Horse, the Master of the Robes and the Lords of the Treasury respectively, to pay Bounties granted by his Majesty to Persons in low and indigent Circumstances;" and another Act was passed in the twenty-seventh year of the reign of his said late Majesty, for the purpose (among other things) of repealing the several Duties of Customs and Excise, and granting other Duties in lieu thereof, and for applying the said Duties, together with other Duties, composing the public Revenue;" and another Act was passed in the Parliament of Ireland, in the thirty-third year of the

Preamble:
1 Geo. 3. c. 1.
22 Geo. 3.
c. 82.
25 Geo. 3.
c. 61.
27 Geo. 3.
c. 13.
33 Geo. 3.(1.)

30. A reign

reign of his said late Majesty, intituled, " An Act for the Support
 of the Honour and Dignity of his Majesty's Crown in Ireland,
 and for granting to his Majesty a Civil List Establishment,
 under certain Provisions and Regulations ;" and another Act
 was passed in the fifty-sixth year of the reign of his said
 late Majesty, intituled, " An Act for the better Regulation of the
 Civil List ;" and another Act was passed in the fifty-ninth year of the
 reign of his said late Majesty, intituled, " An Act for the further
 Regulation of his Majesty's Household, and the Care of his Royal
 Person during the continuance of his Indisposition ;" and another
 Act was passed in the first year of the reign of his late Majesty
 King GEORGE the Fourth, intituled, " An Act for the Support of
 his Majesty's Household, and of the Honour and Dignity of the
 Crown of the United Kingdom of Great Britain and Ireland ;" and
 another Act was passed in the first and second years of the reign of
 his said late Majesty King GEORGE the Fourth, intituled, " An Act
 for removing Doubts as to the Continuance of the Hereditary Reve-
 nues in Scotland ;" and another Act was passed in the first year of
 the reign of his late Majesty King WILLIAM the Fourth, intituled,
 " An Act to repeal certain of the Duties on Cider in the United
 Kingdom, and on Beer and Ale in Great Britain, and to make other
 Provisions in relation thereto ;" and another Act was passed in the
 first year of the reign of his said late Majesty King WILLIAM the
 Fourth, intituled, " An Act for the Support of his Majesty's House-
 hold, and of the Honour and Dignity of the Crown of the United
 Kingdom of Great Britain and Ireland :"

And whereas by the said recited Act of the first year of the reign
 of his said late Majesty King WILLIAM the Fourth, it was enacted,
 that all the Hereditary Rates, Duties, Payments and Revenues in
 England, Scotland and Ireland, and other Hereditary Rates, Duties
 and Payments, as in the said Act mentioned, should be carried to and
 made part of the Consolidated Fund of the United Kingdom of Great
 Britain and Ireland, and from and after the decease of his said
 Majesty King WILLIAM the Fourth, the same should be payable
 and paid to his Majesty's heirs and successors :

And whereas the said several Hereditary Rates, Duties, Pay-
 ments and Revenues now belong and are due and payable to Your
 most Excellent MAJESTY :

And whereas Your MAJESTY has been graciously pleased to
 signify to Your faithful Commons in Parliament assembled, that
 Your MAJESTY placed unreservedly at their disposal those Hereditary
 Revenues which were transferred to the Public by Your MAJESTY's
 immediate Predecessors, and that, desirous the Expenditure in this
 as

as in every other Department of the Government should be kept within due limits, Your MAJESTY felt confident that your faithful Commons would gladly make adequate provision for the support of the honour and dignity of the Crown; Your MAJESTY's most dutiful and loyal Subjects the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, with hearts full of the warmest duty and gratitude, are desirous that a certain and competent Revenue for defraying the expenses of Your MAJESTY's Household and supporting the honour and dignity of the Crown of the United Kingdom during Your MAJESTY's life (which God long preserve) may be settled upon Your MAJESTY as a testimony of our unfeigned affection to Your sacred Person, by whose happy Succession to the Throne Your MAJESTY's Subjects have the strongest assurance that the religion, laws and liberties of this Realm will be continued, and that Your MAJESTY's said Subjects and their posterity may, through the Divine Goodness, enjoy every blessing under Your MAJESTY's auspicious reign, have therefore freely resolved to grant unto You, our most Gracious Sovereign Lady Queen VICTORIA, a certain Revenue payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and that the produce of the said Hereditary Revenues now payable to Your MAJESTY should be carried to and form part of the said Consolidated Fund :

And We do most humbly beseech Your MAJESTY,

That it may be Enacted; ~~And be it Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all Powers, Authorities, Provisions, Regulations and Clauses contained in the said recited Acts, or any or either of them, or in any other Act or Acts of the Parliaments of Great Britain or of Ireland, or of the United Kingdom of Great Britain and Ireland, in force at the time of the decease of his late Majesty King WILLIAM the Fourth, or at the time of the *passing of this Act*, as to the said Hereditary Rates, Duties, Payments and Revenues in any and every part of the United Kingdom of Great Britain and Ireland, and the levying and collecting the payment or keeping separate accounts thereof, or computing the amount of any such Rates, Duties, Payments or Revenues respectively, shall be and the same are hereby Declared and Enacted to be in full force and effect, and shall be used and applied to all the Hereditary Rates, Duties, Payments and Revenues by this Act carried to the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and for the levying, collecting, paying or keeping separate accounts of, or

1.
Powers of
Acts as to
Hereditary
Revenues
to remain in
force.

computing the amount of all or any such Rates, Duties, Payments and Revenues as fully and effectually to all intents and purposes as if the said Powers, Authorities, Provisions, Regulations and Clauses were severally and separately re-enacted in the body of and made part of this Act.

2.
Hereditary
Revenues
carried to
the Consoli-
dated Fund.

And be it Enacted, That the produce of all the Hereditary Rates, Duties, Payments and Revenues in England, Scotland and Ireland respectively, and also the small branches of the Hereditary Revenue, and the produce of the hereditary casual Revenues arising from any Droits of Admiralty or Droits of the Crown, or from the duties 10 called the Four-and-a-Half per Centum Duties or West India Duties, and from the surplus Revenues of Gibraltar, or any other Possession of Her Majesty out of the United Kingdom, and from all other casual Revenues arising either in the Foreign Possessions of Her Majesty or in the United Kingdom, which were surrendered 15 by his said late Majesty King WILLIAM the Fourth for his life, and which upon the demise of his said late Majesty became payable to Her present Majesty, which have accrued since the decease of his said late Majesty, or which shall accrue during the life of Her present Majesty (whom God long preserve), and which shall 20 not have been applied and distributed in the payment of any charge thereupon respectively, save and except the Hereditary Duties of Excise on Beer, Ale and Cider in Great Britain, shall be carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland; and from and after the decease of Her 25 present Majesty (whom God long preserve), all the said Hereditary Revenues shall be payable and paid to Her Majesty's Heirs and Successors.

3.
The clear
yearly Sum of
Three hun-
dred and
Eighty-five
thousand
Pounds to
be paid out of
the Consoli-
dated Fund
for the sup-
port of
Her Majes-
ty's House-
hold, and of
the Honour
and Dignity
of the Crown.

And be it Enacted, That for the support of Her Majesty's House- hold and of the Honour and Dignity of the Crown, and for the 30 payment of the Charges on the First, Second, Third, Fourth and Sixth Classes in the Schedule to this Act annexed, there shall be granted to Her Majesty during Her Life a net yearly Revenue of *Three hundred and Eighty-five thousand* Pounds; and that the said Revenue shall be charged on and made payable out of the Consoli- 35 dated Fund of the United Kingdom of Great Britain and Ireland, and shall commence from and immediately after the decease of his said late Majesty King WILLIAM the Fourth, and be paid to Her present Majesty during Her Life (which God long preserve), with preference to all other Payments which have heretofore been, or 40 which shall or may hereafter be charged upon the same, to be paid quarterly, (that is to say) on the *Thirty-first* day of *March*, the *Thirtieth* day of *June*, the *Thirtieth* day of *September* and the *Thirty-first* day of *December* in each year, by even and equal portions; the

the first charge for the same to be made on the Consolidated Fund on the Quarter-day next immediately after the *passing of this Act*, and to include the proportion of the said Revenue which has accrued and become due to Her Majesty in the period between the day of the death of his late Majesty and the said Quarter-day; but it shall be lawful for the Lord High Treasurer or the Commissioners of Her Majesty's Treasury, or any *Three* or more of them for the time being, after the *passing of this Act*, and previously to the making up of the Consolidated Fund for the Quarter then next ensuing, to direct and cause to be issued and paid at the Receipt of Her Majesty's Exchequer, out of the growing produce of the said Consolidated Fund, such Issues and Payments for Arrears or Charges of the Civil List granted by this Act as may have become due and payable since the day of the death of his late Majesty, in part of the amount to be charged for the same on the account of the Consolidated Fund for the ensuing Quarter; and the said Lord High Treasurer or the Commissioners of Her Majesty's Treasury, or any *Three* or more of them for the time being, shall and they are hereby authorized on and during every succeeding Quarter to cause the said yearly Revenue to be issued and applied from time to time daily, weekly or otherwise, as soon as the same can be satisfied for the uses and purposes by this Act appointed out of the Monies arisen or to arise as aforesaid, so as by the said daily, weekly or other Payments, *One-fourth* part of such yearly Revenue or sum of Money be not exceeded in, for or in respect of each Quarter, and so that upon every of the said Quarterly Days the whole amount then due thereupon be computed, made up or satisfied according to the true intent and meaning of this Act.

AND whereas the sum of Two hundred thousand Pounds was granted in the last Session of Parliament to enable Her Majesty to satisfy such Charges, Pensions and Annuities as would have been payable out of the Civil List, in case the Demise of his said late Majesty had not taken place before the Thirty-first day of December One thousand eight hundred and Thirty-seven: AND whereas the Hereditary Revenues of Her Majesty, arisen and paid into the Exchequer since the time of his late Majesty's decease, have in pursuance of the said recited Acts of the twenty-seventh year of the reign of his late Majesty King GEORGE the Third, and the first year of the reign of his late Majesty King GEORGE the Fourth, and the first year of the reign of his late Majesty King WILLIAM the Fourth, been set apart at the Exchequer for the use of Her Majesty; BE it therefore Enacted, That out of the first Monies which shall be issued and paid out of the Consolidated Fund in respect of the Civil List Revenue granted to Her Majesty by this Act, there shall be repaid to or retained in the Exchequer, towards completing the

4.
So much of the Sum of 200,000*l.* granted to make Civil List Payments as shall have been so applied, shall be repaid out of the Money granted for the Civil List by this Act.

aids granted by Parliament for the service of the year One thousand eight hundred and Thirty-seven, a sum equal to so much of the said Sum of Two hundred thousand Pounds, as shall have been or shall be advanced and applied in satisfying any payments for which provision shall be made in the Civil List under this Act, and which after the *passing of this Act* become properly charged or chargeable upon the Civil List Revenues; and there shall be repaid to the Consolidated Fund a sum equal to so much of the amount of the said Hereditary Revenues so set apart at the Exchequer as aforesaid as has been or may be issued or applied out of those Revenues for satisfying the said charges as aforesaid; and the remainder of the said Hereditary Revenues which may not have been issued or paid in satisfaction of any such charges or of any other charges thereon, shall be carried to the said Consolidated Fund immediately after the *passing of this Act*.

5.
Pensions.

AND whereas it is expedient to make provision, at the Rate of *One thousand two hundred* Pounds a year for each and every succeeding year of Her Majesty's reign, to defray the Charge of such Pensions as may be granted by Her Majesty, chargeable on Her Majesty's Civil List Revenues; BE it therefore Enacted, That it shall be lawful for the Lord High Treasurer; or for the Commissioners of Her Majesty's Treasury for the time being, to charge upon and issue Quarterly out of the said Consolidated Fund, as an addition to the Sum hereby granted for Her Majesty's Civil List, such sums as shall be required to defray the Charge of such Pensions as may be granted as aforesaid, at the rate of *One thousand two hundred* Pounds a year for the *First* Year of Her Majesty's reign, and at the like additional yearly rate, for the *Second* and every succeeding Year of Her said reign: Provided always, That if Pensions to the amount of *One thousand two hundred* Pounds shall not have been granted by Her Majesty in any one year, then and in that case no charge beyond the amount of the Pensions actually granted shall be created in any succeeding year, in respect of the year in which such lesser amount shall have been granted.

6.
Restrictions
on grants of
Pension.

AND whereas it was resolved by the Commons House of Parliament, on the Eighteenth day of February One thousand eight hundred and Thirty-four, "That it is the bounden duty of the responsible Advisers of the Crown to recommend to his Majesty for grants of Pensions on the Civil List such persons only as have just claims on the Royal beneficence, or who by their personal services to the Crown, by the performance of duties to the Public, or by their useful discoveries in Science and attainments in Literature and the Arts have merited the gracious consideration of their Sovereign, and the gratitude of their Country: AND whereas it is expedient that provision should be made by law for carrying into full effect the

the said Resolution, and for giving an assurance to Parliament that the responsible Advisers of the Crown have acted in conformity therewith; BE it therefore Enacted, That the Pensions which may hereafter be charged upon the Civil List Revenues shall be granted to such persons only as have just claims on the Royal beneficence, or who by their personal services to the Crown, by the performance of duties to the Public, or by their useful discoveries in Science and attainments in Literature and the Arts, have merited the gracious consideration of their Sovereign and the gratitude of their Country; and that a List of all such Pensions granted in each year ending the *Twentieth* day of *June* shall be laid before Parliament within *Thirty* Days after the said *Twentieth* day of *June* in each year, if Parliament shall be then sitting, but if Parliament shall not be then sitting, then within *Thirty* Days after the next meeting of Parliament.

AND whereas by the said recited Act of the first year of the reign of his late Majesty King WILLIAM the Fourth, for repealing the Duties on Beer, Ale and Cider, it was provided, that the Hereditary Duties of Excise on Beer, Ale and Cider in Great Britain, the collection and payment whereof were, under the provisions of the said Act, suspended during the life of his said late Majesty, should on the demise of his said Majesty revive and be again payable, collected and paid: AND whereas, in pursuance of such provision, the Commissioners of Excise have, since the demise of his said late Majesty, caused the said Hereditary Duties to be charged on all Beer, Ale and Cider brewed or made in Great Britain, but the amount thereof has not yet been collected: AND whereas the whole of the Duties on Beer, Ale and Cider having been repealed by the said recited Act, save and except the said Hereditary Duties, it is expedient to make provision that the said Hereditary Duties also shall not be collected or paid during the continuance of this Act, and that the sums already charged in respect thereof should be remitted; BE it therefore Enacted, That during the continuance of this Act, the said Hereditary Duties on Ale, Beer and Cider shall not be charged, collected or paid, or be chargeable or payable; and it shall be lawful for the Commissioners of Excise, and they are hereby authorized and required to remit and discharge the amount of the said Duties in the several cases in which they have been charged but not collected as aforesaid: Provided always, That if the Heir or Successor of Her Majesty (whom God long preserve) shall signify his or her Royal will and pleasure, in manner hereinafter provided, to resume the possession of the several Hereditary Revenues of the Crown, the said Hereditary Duties on Ale, Beer and Cider shall from thenceforth revive and be again charged, collected and paid for the use of such Heir or Successor, and his or her Heirs and Successors, in the manner provided by the said recited Act.

7.
As to Hereditary Duties on Beer, Ale and Cider.

8.
Mode of ap-
propriating
the Monies
issued.

AND whereas by the said recited Act of the twenty-second year of the reign of his late Majesty King GEORGE the Third, it was enacted that the Commissioners of the Treasury should draw out a plan for the establishments and payments of the Civil List Revenues, in Classes according to the order mentioned in the said Act, and that all sums of money which should become due and payable out of the said Civil List Revenues, for any of the purposes mentioned in the said Act, should be paid in the order and according to the plan therein mentioned, and it is expedient to alter the said Classes so as to confine the same to the expenses of Her Majesty's Household, and the honour and dignity of the Crown, and to specify the amount to be appropriated to each Class, and for this purpose an Estimate has been laid before Parliament of the future amount of charges on the several Classes so altered, which amount for each Class respectively is specified in the Schedule to this Act; BE it therefore Enacted, That it shall be lawful for the Lord High Treasurer or the Commissioners of the Treasury for the time being, or any *Three* or more of them, and they are hereby required at the commencement of every Quarter or within *Thirty Days* from the commencement of each Quarter, by warrant under their hands, to direct what sums shall respectively be set apart and appropriated in the Receipt of Her Majesty's Exchequer out of the quarterly Revenues of the Civil List, for the purpose of defraying the several charges upon the respective Classes thereof, but so as that the Sum to be appropriated to any one Class do not exceed *One-fourth* part of the estimated annual Amount of that Class, as specified in the Schedule to this Act, together with any saving which may have accrued upon the said Class in the preceding Quarter; and the several and respective Sums in the said warrant directed to be set apart and appropriated, shall be so set apart by the Comptroller General of Her Majesty's Exchequer, and be appropriated to the respective Classes accordingly, and each and every Sum so set apart and appropriated shall in the first place be applied in payment of all the unsatisfied charges of every description of the Class in respect of which such appropriation shall have been made in preference to any other charges whatever upon Her Majesty's Civil List Revenues; and no part thereof shall, on any account whatever, be applied until after the termination of each year ending on the *Thirty-first* day of *December*, for any other purpose, or in aid of any other of the Classes of the Civil List, or of any other of the charges thereon, any thing contained in the said recited Act of the twenty-second year of His late Majesty King GEORGE the Third or any other Act to the contrary notwithstanding.

9.
Treasury may
direct Savings
in any Class to

Provided always, and be it Enacted, That if any Saving or Surplus shall arise in any Quarter in respect of any money appropriated

- 5 priated for defraying the charges of any particular Class, so as that
 the sum appropriated thereto shall be more than sufficient for
 the full and complete payment of the charges thereon, such quar-
 10 terly Saving or Surplus shall, in every such case, be carried forward
 in the Exchequer to the account and credit, and be applied for
 the purposes of the Class in which it shall have arisen, until the
Thirty-first day of December in every year; and whenever any such
 Saving or Surplus remaining at the end of the year, shall have
 arisen in any of the Classes of the Civil List, then it shall be lawful
 15 for the Lord High Treasurer or Commissioners of the Treasury for
 the time being, or any *Three* or more of them, to direct the same to
 be applied in aid of the charges or expenses of any other Class
 (except the Fifth Class), or of any charge or charges upon Her
 Majesty's Civil List Revenues, in such manner as may, under the
 20 circumstances, appear to be most expedient: Provided always,
 That the charge upon the Fifth Class shall in no case exceed the
 sum by this Act limited for that Class.

be applied
at the end of
the Year in
aid of other
Classes.

- And be it Enacted, That whenever the total charge upon the
 Civil List from the *Thirty-first day of December* in any one year to
 20 the *Thirty-first day of December* in the succeeding year, on
 account of the First, Second, Third Fourth and Sixth Classes, shall
 amount to more than the sum of *Four hundred thousand Pounds*,
 an Account, stating the particulars of such Exceedings, and
 the cause thereof, shall be submitted to Parliament within *Thirty*
 25 Days after the same shall have been ascertained, if Parliament shall
 be then sitting; but if Parliament shall not be then sitting, then the
 said Account shall be presented within *Thirty Days* after the next
 meeting of Parliament.

10.

In case of Ex-
ceedings, par-
ticulars to be
laid before
Parliament.

- AND whereas doubts may be entertained whether the provisions of
 30 the Acts relating to the Civil List Revenues have expired with the
 Civil List Revenue of his late Majesty King WILLIAM the Fourth,
 by the decease of his late Majesty; BE it therefore Enacted and
 Declared, That all the provisions, regulations, restrictions, clauses,
 matters and things contained in the said recited Acts, or any or
 35 either of them, which were applicable and in force as to the Civil
 List Revenues at the time of the decease of his said late Majesty,
 shall so far as the same are not altered, varied or repealed by this
 Act, be and remain and continue, and are hereby declared to be
 in full force and effect as to the Civil List Revenue granted by this
 40 Act, and shall be used and applied so far as the same are appli-
 cable, in relation to the issuing, paying, receiving, distribution
 care, management, regulation, and accounting for the Civil List
 Revenue granted by this Act, as fully and effectually to all intents
 and purposes, as if the same were severally, separately and respect-

11.

Provisions of
all former
Civil List
Acts to re-
main in force
for the pur-
poses of this
Act, except
as hereby
altered.

ively repeated and re-enacted in the body of this Act and made part thereof.

12.

This Act not to affect certain Powers relating to the small branches of Hereditary Revenue.

And be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, in anywise to impair, affect or prejudice any rights or powers of control, management or direction 5 which have been or may be exercised by authority of the Crown or other lawful warrant relative to any leases, grants or assurances of any of the said small branches of Her Majesty's Hereditary Revenues, or to any suits or proceedings for recovery of the same, or to compositions made or to be made on account of any of the small 10 branches, or to any remission, mitigation or pardon of any penalties or forfeitures incurred or to be incurred, or to fines taken or to be taken, or to rents, boons and services reserved or to be reserved upon such grants, leases and assurances, or to the mitigation or remission of the same, or to any other lawful act, matter or thing 15 which has been or may be done touching the said branches, or to the granting of any Droits of Admiralty or any Droits of the Crown, or any part or proportion of any such Droits respectively, as a reward or remuneration to any officer or officers, or other person or persons seizing or taking the same, or giving any informa- 20 tion relating thereto, or to the granting, disposing of or leasing any freehold or copyhold property, or the produce or any part of the produce or amount or value of any freehold or copyhold, to which Her Majesty or any of Her Royal Predecessors have or hath or shall become entitled, either by escheat for want of heirs, or by 25 reason of any forfeiture, or by reason that the same have been or shall be purchased by or for the use of or in trust for any Alien or Aliens in the manner authorized by any Act touching or concerning the granting, disposing or leasing of the same, or to the granting or distributing of any personal property devolved to the Crown, by 30 reason of the want of next of kin or personal representative of any deceased person ; but that the same rights and powers shall continue to be used, exercised and enjoyed in as full, free, ample and effectual a manner, to all intents and purposes, as if this Act had not been passed, and as the same have been or might have been enjoyed by 35 his late Majesty King WILLIAM the Fourth, at the time of his decease ; subject nevertheless to all such restrictions and regulations as were in force, by virtue of any Act in relation thereto, at the time of the decease of his said late Majesty, it being the true intent and meaning of this Act that the said rights and powers shall not in 40 any degree be abridged, restrained, affected or prejudiced in any manner whatsoever, but only that the monies accruing to the Crown, after the full and free exercise and enjoyment of the said rights and powers, subject as aforesaid, shall during Her Majesty's life be carried to and made part of the Consolidated Fund of the United Kingdom.

Enacting

5 **Saving always** to all and every person and persons, bodies
 politic and corporate, their heirs and successors, executors, admi-
 nistrators and assigns, all such grants, gifts of mortification, rights,
 titles, estates, customs, interests, claims and demands whatsoever or,
 in, to or out of the revenues, hereditaments and others belonging
 to his late Majesty King WILLIAM the Fourth in Scotland, as they
 or any of them had or ought to have had at the *passing of this Act*,
 as fully and effectually, to all intents and purposes, as if this Act
 had never been passed; any thing herein contained to the contrary
 10 notwithstanding.

13.
 Saving of
 Rights in
 Scotland.

And be it Enacted, That all payments out of the Civil List
 Revenue shall be paid net and clear of all taxes or charges for
 or in respect of any Land Tax, or of the duties of *One Shilling and*
Sixpence respectively, and clear of all fees and other deductions
 15 heretofore charged upon and deducted from such payments.

14.
 Payments of
 Civil List to
 be free from
 Land Tax,
 &c.

And be it Enacted, That it shall be lawful for the Lord High
 Treasurer or the Commissioners of the Treasury for the time being,
 or any *Three* or more of them, to direct the issue out of the said
 Consolidated Fund, to such person or persons as shall be named in
 20 any warrant or warrants under their hands to receive the same, the
 sum of *Ten thousand* Pounds in each and every year, to be applied to
 the same purposes and under the same authority as the sum of *Ten*
thousand Pounds per annum formerly charged upon the Fourth Class
 of the Civil List for Home Secret Service has heretofore been applied :
 25 Provided always, That the said Sum shall only be issued in equal
 Quarterly Payments in each Quarter of a Year.

15.
 Sum of
 £.10,000 for
 Home Secret
 Service.

AND whereas it is expedient to make further provision for carrying
 into effect an Act passed in the fifty-ninth year of the reign of his
 late Majesty King GEORGE the Third, intituled, "An Act to
 30 authorize the Receipt and Appropriation of certain Sums voluntarily
 contributed by the Most Noble John Jeffreys, Marquis Camden, in
 aid of the Public Service ;" BE it therefore Enacted, That from and
 after the *passing of this Act* it shall be lawful for the Lord High
 Treasurer, or the Commissioners of Her Majesty's Treasury, or any
 35 *Three* of them, to direct the payment to the said Marquis Camden,
 out of the Consolidated Fund, of such amount or sum of money,
 quarterly and every quarter, as shall be equal to the amount of
 Fees due to the said Marquis Camden on the quarterly issues which
 shall be made under the authority of this Act.

16.
 Providing for
 issue to Mar-
 quis Camden,
 under 59 Geo.
 3. c. 43.

40 And be it Enacted, That this Act shall continue in force for *Six*
 Months after the death of Her most Excellent Majesty (whom God
 30. c long

17.
 Continuance
 of Act.

long preserve), unless the Heir or Successor of Her said Majesty shall sooner signify to both Houses of Parliament his or her Royal Will and Pleasure to resume the possession of the several Hereditary Rates, Duties, Payments and Revenues hereby surrendered by Her Majesty.

5

18.
Act may be
altered this
Session.

And be it Enacted, That this Act may by amended, altered or repealed by any Act to be passed in this present Session of Parliament.

SCHEDULE

TO WHICH THIS ACT REFERS.

	£.
FIRST CLASS: - - - For Her Majesty's Privy Purse - -	60,000
SECOND CLASS: - - Salaries of Her Majesty's Household and Retired Allowances - - }	131,260
THIRD CLASS: - - Expenses of Her Majesty's Household	172,500
FOURTH CLASS: - - Royal Bounty, Alms and Special Ser- vices - - - - - }	13,200
FIFTH CLASS: - - - Pensions to the extent of £.1,200 per annum.	
SIXTH CLASS: - - - Unappropriated Monies - - -	8,040
	£. 385,000

Civil List.

A

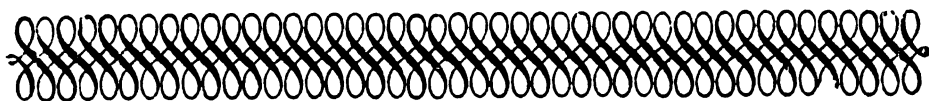
B I L L

For the Support of Her Majesty's Household,
and of the Honour and Dignity of the Crown
of the United Kingdom of Great Britain and
Ireland.

(Prepared and brought in by
The Chancellor of the Exchequer,
Lord John Russell, Mr. Poulett Thomson,
Sir John Hobhouse, and Mr. F. T. Baring.)

Ordered, by The House of Commons to be Printed,
12 December 1837.

6 July 1838.—2 VICT.



(Ireland.)

A

B I L L

To authorize the Advance of a certain Sum of Money for the Relief of the County of Clare, and of the Creditors and others remaining unpaid by reason of the Default of the late Treasurer of the said County, and to provide for the Repayment of such Advances, and to direct certain Proceedings to be taken in reference to the Default of such late Treasurer.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ divers sums have been from time to time Preamble.
advanced out of the public monies, under the provisions of
certain Acts for the execution of Public Works, and for other public
purposes in the county of Clare, and a balance is now due from the
said county upon the said advances by reason of the default of George
5 O'Callaghan, Esquire, the late Treasurer of the said county: And
whereas a large sum is also due to the said county by the said late
Treasurer, over and above the sums which ought to have been applied
in repayment of the said advances: And whereas great public incon-
10 venience may arise if the contractors and others who have demands
against the said county shall remain unpaid: And whereas the nature
and circumstances of the property of the said late Treasurer render it
expedient to enter into an arrangement for securing the ultimate repay-
ment of the sums owing by him to the said county, with interest as
15 hereinafter mentioned: And whereas the said late Treasurer, together
with certain sureties, entered into recognizances to his late Majesty
King GEORGE the Fourth, his heirs and successors, in a certain
amount conditioned for securing the sums to be by him received as
such Treasurer, and the sum specified in such recognizances is now
ready to be paid; and it is expedient to permit the entire of the said
561. A sum

sum to be applied towards payment of the sums due to the said contractors and others whose demands remain unpaid, notwithstanding the prior right of the public to be thereout repaid the aforesaid advances out of the public monies; and it is also expedient to advance a further sum out of the public monies for the present relief of the said county, to be repaid, together with the aforesaid advances heretofore made, as hereinafter mentioned; **BE it therefore Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the Authority of the same, **10** THAT the Chief Remembrancer of the Court of Exchequer in Ireland shall with all convenient speed proceed to ascertain the whole sum due or payable by the said George O'Callaghan to the said county as such Treasurer; and also to ascertain the sums due upon such advances as have been so made as aforesaid, for the execution of Public Works or **15** for other public purposes in the said county, and shall certify the same by a certificate in writing, and shall transmit such certificate to the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland.

1.
The Chief Remembrancer shall ascertain the sum due by the late Treasurer of the county of Clare to that county; and how much thereof is due to the public for monies advanced to the county; and shall certify same to the Lords of the Treasury.

2.
Upon receipt of such Certificate the Lords of the Treasury may direct that the whole of the sums payable under recognizances, and a further sum not exceeding the sum due by the late Treasurer to the county, shall be paid over to the present Treasurer of the county, the further sum to be advanced out of the Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners of Her Majesty's Treasury, or any Three or more of them, on the receipt of such Certificate, to authorize and direct that the whole of the monies payable under the said recognizances and any additional sum or sums not exceeding in the whole the sum which the Chief Remembrancer shall so certify to be due by the said late Treasurer, shall be paid to the Treasurer for the time being of the said county, or lodged to the credit of his account in the Bank in which may be kept his account as the said Treasurer, such additional sum or sums to be advanced upon the Warrant of the said Commissioners of the Treasury, or any Three or more of them, out of the Consolidated Fund of the United Kingdom, and the whole of such monies to be by said Treasurer applied, so far as the same shall extend, first in discharge of the sums due to the said Contractors and others whose demands shall remain unsatisfied, and next in payment of current and future expenses of Public Works in the said county, or for other public purposes in the said county, under the directions of the Grand Jury, and to be kept and accounted for by the said Treasurer for the time being, in like manner as other public monies received by him as such Treasurer, and to be considered as such in any proceeding against the said Treasurer or his sureties. **20** **25** **30** **35**

3.
The Money now due on account of former advances, and the further sum advanced under this Act to be repaid with interest by Twelve half-yearly instalments.

And be it Enacted, That the sum now due and owing from the said county of Clare on account of the said advances heretofore made out of the public monies, together with such additional sum as may be advanced out of the said Consolidated Fund under the provisions of this Act, shall be repaid by Grand Jury presentment in and off the said county of Clare as hereinafter mentioned, in Twelve equal half-yearly instalments, with interest **40**

interest on the amount from time to time unpaid and outstanding, at the rate of Four Pounds per centum per annum, such interest to be computed from the time or times when such sum or sums of money shall be paid to the Treasurer of such county.

- 5 And be it Enacted, That at the assizes next ensuing the payment to the Treasurer of the said county of any sum or sums of money under the authority of this Act, and at each succeeding assizes, until the entire sum or sums so to be paid to the said Treasurer shall be repaid, it shall be lawful for the Grand Jury of the said county of
- 10 Clare, and they are hereby required to present to be raised off the said county at large such sum of money as the said Commissioners of the Treasury shall, by writing under the hand of either of their Joint or Assistant Secretaries, certify to be the sum to be presented at such assizes in payment of the Instalment, with interest as aforesaid, then
- 15 due and owing under the provisions of this Act; and such certificate shall be transmitted under the direction of the said Commissioners of Her Majesty's Treasury to the Secretary of the said Grand Jury, who shall lay the same before the said Grand Jury at such next assizes; and in case the Grand Jury at any such assizes shall neglect or refuse
- 20 to present the sum mentioned in such certificate, the Judge by or before whom the presentments at any such assizes shall or ought to be filed or passed is hereby authorized and required to make an order directing the sum mentioned in such certificate to be raised and levied as if the same had been so presented; and such order should have the
- 25 force and effect of a presentment; and the Treasurer of the said county shall insert the sum or sums mentioned in the said order in his warrant, and the same shall be apportioned, raised and levied in like manner, to all intents and purposes, as if the same had been duly presented by the said Grand Jury, and shall, when and as levied and
- 30 received by the Treasurer of such county, be paid to such bank or person as shall be for that purpose named in such certificate, or as other monies payable for the time being on account of public advances to the said county may be then payable under any order of the said Commissioners of the Treasury or otherwise.

4.
Provision for repaying to the Treasury by instalments the sum so advanced and forborne to the county; to that end the Grand Jury of the county are required at each Assizes to raise such instalment with interest.

Usual provision to enforce such presentments.

- 35 And be it Enacted, That it shall be lawful for the said Chief Remembrancer and he is hereby authorized and required forthwith to investigate the nature and circumstances of the Estate, real and personal, of the said George O'Callaghan, and to determine thereupon whether any and what proceedings should be taken to enforce the payment of the balance which may be found due by him to the said county,
- 40 or on account of any monies for which he was liable, or which he was bound to pay or account for as the Treasurer of such county, and to certify the same to Her Majesty's Attorney General for Ireland, in order to his proceeding thereon as may be expedient; or if the said

5.
The Chief Remembrancer shall have power to determine upon what proceedings should be taken against the late Treasurer for the recovery of the sum for which he made default, and to certify the same to Attorney General for Ireland, that he may proceed accordingly;

and if the Chief Remembrancer shall be of opinion that it would be more advantageous that an agreement should be entered into with the late Treasurer for securing and repaying the sum he owes the county, then the Chief Remembrancer shall determine upon the terms of such agreement and security, and shall have power to carry such agreement into effect, and to direct the necessary acts to be done in order thereto.

May grant a custodiam, or divide a conveyance to Trustees, and appoint or remove Trustees, and effect insurance;

and fix the rate of interest to be paid by the Sub-Treasurer. Not less than 4% per cent.

Chief Remembrancer shall think that it will not be beneficial to take any such proceedings, or to take such proceedings only for part of such balance, and that, on the contrary, it would be more to the public advantage that an agreement should be entered into by or for or with the said George O'Callaghan, for his giving or procuring 5 security for the ultimate repayment of the sums or balance owing by him to the said county, or on account of his default in his said office, with any interest thereon or any part thereof, then that it shall be lawful for the said Chief Remembrancer and he is hereby required to consider and determine the terms of such agreement, and the nature 10 and amount of such security, and the title to the property to be included in or affected by the same, and the amount to be charged thereon for principal, interest, receiver's fees, poundage, or other reasonable charges, and the form and manner in which, and the acts, deeds, assurances or other matters by which the same ought 15 to be affected, and to direct to be had and done all such acts, deeds and assurances, and other matters, as to the said Chief Remembrancer shall seem expedient, whether by the granting of a custodiam or custodiams on the said recognizances or any of them, or on any new recognizance or recognizances, or by the conveyance of 20 any lands or other property to a trustee or trustees, or by effecting a policy or policies of insurance on the life of the said late Treasurer, and applying any property to the payment of the premiums on such policy or policies, and to the payment of interest on the sums or balance so owing by the said George O'Callaghan or otherwise, or 25 by such other ways or means as the said Chief Remembrancer shall deem expedient and shall find to be practicable under all the circumstances of the case; and to consider and determine on the person or persons who shall be Trustee or Trustees for any of the purposes of such security; and to consider and determine the rate of interest to be 30 payable upon the balance or sum so to be secured or to be included in such security (such rate of interest not to be less than *Four Pounds* per centum per annum), and from time to time to consider, determine and make orders, as to said Chief Remembrancer shall seem expedient, for compelling the Trustee or Trustees of such security, 35 or of any property included in or affected by the same, or acting in relation thereto, to account or to pay over monies or balances in his or their hands as the Chief Remembrancer shall direct, or for the removal of such Trustee or Trustees, or for the appointment of other and others in their or his room, or for compelling such Trustee or 40 Trustees to assign over to such person or persons as said Chief Remembrancer shall nominate as new Trustee or Trustees any property vested in him or them as such Trustee or Trustees; and further from time to time to consider, determine and make orders, as to the said Chief Remembrancer shall seem expedient, for effectuating the purposes of such security and for preventing the same from being defeated

defeated or delayed, or for any other purposes in relation to such security; and all such orders as the said Chief Remembrancer shall make touching the premises shall be enforced by attachment or otherwise, and shall have such force and effect as any order or orders
 5 which he is or shall be by law empowered to make in the performance of any of the functions or duties appertaining to his office; and all the powers and authorities now vested or at any times hereafter to be vested in him by virtue of his office, or under any Act or Acts, or otherwise, or by any Order or Orders in Council, for performing the
 10 duties of the said office of Chief Remembrancer, or for taking, enforcing or auditing the accounts of County Treasurers or any other accounts, shall and may be used and applied in and towards the performance of any duty or power imposed on or given to him by this Act; and all persons shall be subject to his order and this Act as
 15 fully as if such orders were made by him according to any other authority vested in him by law.

Chief Remembrancer to have all such powers in respect to such trust as he is invested with in respect to other matters of account as Chief Remembrancer; or in auditing the accounts of County Treasurer.

And be it Enacted, That it shall be lawful for the said Chief Remembrancer, in case it shall appear to him expedient so to do for the purpose of facilitating the completion of such security, or of carry-
 20 ing the same into effect, by any order or orders to be by him made, to vacate, suspend or enjoin for such time or times or upon such terms as to him shall seem expedient, any proceedings against the said late Treasurer, for or in respect of his said balance or default, whether under the Act passed in the first year of the reign of Her present
 25 Majesty, intituled, "An Act to provide more effectual means to make Treasurers of Counties and Counties of Cities in Ireland account for Public Monies and to secure the same or otherwise:" Provided always, That nothing in this Act contained shall be construed to release or to
 30 authorize the said Chief Remembrancer to release the sureties of the said George O'Callaghan from their liability under the recognizances entered into by them or either of them.

6.
 The Chief Remembrancer shall have power to stay proceedings against the late Treasurer if he deems it expedient, whether such proceedings have been or shall be taken under the Act of 1 Victoria, or otherwise.

Sureties not be released.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

7.
 Public Act.

And be it Enacted, That this Act may be amended or repealed by an Act to be passed in this present Session of Parliament.

8.
 Act may be amended.

County of Clare Advance.

(Ireland.)

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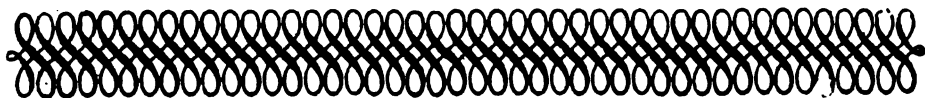
B I L L

To authorize the Advance of a certain Sum of Money for the Relief of the County of Clare, and of the Creditors and others remaining unpaid by reason of the Default of the late Treasurer of the said County, and to provide for the Repayment of such Advances, and to direct certain Proceedings to be taken in reference to the Default of such late Treasurer.

(Prepared and brought in by
*Lord Viscount Morpeth and
Lord John Russell.*)

*Ordered, by The House of Commons, to be Printed,
6 July 1838.*

23 July 1838.—2 VICT.



(Ireland.)

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B I L L

To authorize the County of Clare to borrow a Sum of Money for the Relief of the Creditors and others remaining unpaid by reason of the Default of the late Treasurer of the said County, to provide for the Repayment of the same, and to direct Proceedings to be taken in reference to the Default of such late Treasurer.

WH ~~HEREAS~~ a large sum is due to the County of Clare by George O'Callaghan, Esquire, the late Treasurer of the said county, and several demands upon the said County remain unpaid in consequence thereof: And whereas the nature and circumstances of the property of the said late Treasurer render it expedient to enter into an arrangement for securing the ultimate repayment of the sums owing by him to the said County, with interest as hereinafter mentioned; and it is expedient to enable the said County in the meantime to borrow such sum or sums as may be necessary for discharging the said demands upon it; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the Authority of the same, THAT the Chief Remembrancer of the Court of Exchequer in Ireland shall with all convenient speed proceed to ascertain the whole sum due or payable by the said George O'Callaghan to the said County as such Treasurer, and also to ascertain the amount of all existing demands upon the said County, and of all funds now applicable to the payment thereof, whether in the hands of the present Treasurer or otherwise; and he shall certify the sum due by the said George O'Callaghan, and the amount of the said demands, and of the funds applicable to the payment thereof, to the Lord Lieutenant of Ireland in Council.

Preamble.

1.
The Chief Remembrancer shall ascertain the Sum due by the late Treasurer of the County of Clare to that County.

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And

2.

The Chief Remembrancer shall have power to determine upon what proceedings should be taken against the late Treasurer for the recovery of the Sum for which he made default ;

and if the Chief Remembrancer shall be of opinion that it would be more advantageous that an agreement should be entered into with the late Treasurer for securing and repaying the Sum he owes the County, then the Chief Remembrancer shall determine upon the terms of such agreement and security, and shall have power to carry such agreement into effect, and to direct the necessary acts to be done in order thereto.

May appoint or remove Trustees, and effect Insurance ;

and fix the rate of interest to be paid by the Sub-Treasurer. Not less than 4l. per cent.

And be it Enacted, That it shall be lawful for the said Chief Remembrancer and he is hereby authorized and required forthwith to investigate the nature and circumstances of the Estate, real and personal, of the said George O'Callaghan, and to determine thereupon whether any and what proceedings should be taken to enforce the payment of the balance which may be found due by him to the said County, or on account of any monies for which he was liable, or which he was bound to pay or account for as the Treasurer of such County, and to enforce payment of the balance which he shall find due by the said George O'Callaghan, by causing Her Majesty's writ of Levamur facias to issue against him, or by granting a custodiam of the lands of the said George O'Callaghan, in like manner as if he were debtor to the Crown for the balance which shall be found due by him as aforesaid ; or if the said Chief Remembrancer shall think that it will not be beneficial to take any such proceedings, or to take such proceedings only for part of such balance, and that, on the contrary, it would be more to the public advantage that an agreement should be entered into by or for or with the said George O'Callaghan, for his giving or procuring security for the ultimate repayment of the sums or balance owing by him to the said County, or on account of his default in his said office, with any interest thereon or any part thereof, then that it shall be lawful for the said Chief Remembrancer and he is hereby required to consider and determine the terms of such agreement, and the nature and amount of such security, and the title to the property to be included in or affected by the same, and the amount to be charged thereon for principal, interest, receiver's fees, poundage, or other reasonable charges, and the form and manner in which, and the acts, deeds, assurances or other matters by which the same ought to be affected, and to direct to be had and done all such acts, deeds and assurances, and other matters, as to the said Chief Remembrancer shall seem expedient, either by the conveyance of any lands or other property to a trustee or trustees, or by effecting a policy or policies of insurance on the life of the said late Treasurer, and applying any property to the payment of the premiums on such policy or policies, and to the payment of interest on the sums or balance so owing by the said George O'Callaghan or otherwise, or by such other ways or means as the said Chief Remembrancer shall deem expedient and shall find to be practicable under all the circumstances of the case ; and to consider and determine on the person or persons who shall be Trustee or Trustees for any of the purposes of such security ; and to consider and determine the rate of interest to be payable upon the balance or sum so to be secured or to be included in such security (such rate of interest not to be less than Four Pounds per centum per annum), and from time to time to consider, determine and make orders, as to said Chief Remembrancer shall seem expedient, for compelling the Sheriff or officer charged with the execution

cution of such writ of *Levari facias* as aforesaid, or the custodee or custodees named in any such custodiam as aforesaid, or any such Trustee or Trustees as aforesaid, to account or to pay over monies or balances in his or their hands as the Chief Remembrancer shall direct, or for the removal of such custodee or custodees, or Trustee or Trustees, or for the appointment of other and others in their or his room, or for compelling such Trustee or Trustees to assign over to such person or persons as said Chief Remembrancer shall nominate as new Trustee or Trustees any property vested in him or them as such Trustee or Trustees; and further from time to time to consider, determine and make orders, as to the said Chief Remembrancer shall seem expedient, for effectuating the purposes of any such security as aforesaid, and for preventing the same from being defeated or delayed, or for any other purposes in relation to such security; and all such orders as the said Chief Remembrancer shall make touching the premises shall be enforced by attachment or otherwise, and shall have such force and effect as any order or orders which he is or shall be by law empowered to make in the performance of any of the functions or duties appertaining to his office; and all the powers and authorities now vested or at any times hereafter to be vested in him by virtue of his office, or under any Act or Acts, or otherwise, or by any Order or Orders in Council, for performing the duties of the said office of Chief Remembrancer, or for taking, enforcing or auditing the accounts of County Treasurers, or any other accounts, shall and may be used and applied in and towards the performance of any duty or power imposed on or given to him by this Act; and all persons shall be subject to his order and this Act as fully as if such orders were made by him according to any other authority vested in him by law.

Chief Remembrancer to have all such powers in respect to such trust as he is invested with in respect to other matters of account as Chief Remembrancer, or in auditing the accounts of County Treasurer.

And be it Enacted, That it shall and may be lawful for the said Lord Lieutenant of Ireland in Council, by any order to be by him made for that purpose, to authorize the present Treasurer of the said County to borrow, upon the security of a county rate to be levied as hereinafter mentioned, any sum that the said Lord Lieutenant in Council shall deem necessary for enabling the said County to discharge any of the said existing demands upon it, and to direct that the same, with such interest thereupon as the said Lord Lieutenant in Council shall think proper, shall be levied off the County as Grand Jury Cess now is, by so many instalments as shall be stated in the said order, and that the first and each subsequent instalment shall be paid at such Assizes as in and by the said order shall be appointed in that behalf; and if any person shall be willing to lend or advance the amount of the said instalments, or any of them, for the use of the said County, and shall pay the same into the Bank with which the said Treasurer has his public account as aforesaid, to the credit of the said account, it

3.
Lord Lieutenant in Council may authorize the present Treasurer to borrow Money on security of County Rate.

shall be lawful for the said Treasurer to give to him a draft upon the said Bank for the amount of each instalment which he shall so advance, and which draft shall be countersigned by the Clerk of the Crown of the said County, and shall be made payable to the payee or his order, with such interest as aforesaid, at the Assizes at which the said instalment ought to be paid under or by virtue of the said Order in Council, and the said Treasurer shall include the amount of every such instalment, and of the interest which will become payable thereupon, in the warrant which he shall issue for raising the sums leviable under the Grand Jury Presentments of the preceding Assizes, and the same shall be raised and paid into the said Bank in like manner as any sums leviable by Grand Jury Presentment ought now to be; and any sum or sums which shall be lent or advanced as aforesaid, shall be paid and applied by the said Treasurer in satisfaction of the said demands, in such manner as the said Lord Lieutenant in Council shall in and by such order as aforesaid direct.

4.
Order of Chief Remembrancer shall be lodged with Clerk of Privy Council, and published in Dublin Gazette.

And be it Enacted, That any order which the said Chief Remembrancer shall make, for any of the purposes aforesaid, shall be lodged with the Clerk of Her Majesty's Privy Council in Ireland, who shall cause the same to be published in the Dublin Gazette; and it shall be lawful for the said Lord Lieutenant in Council to reverse or vary the same, provided a petition of appeal against such order shall be presented to the said Lord Lieutenant in Council within Twenty-one Days after the same shall have been published as aforesaid in the same Gazette.

5.
Chief Remembrancer may order recognizances to be vacated on payment by George O'Callaghan of the sum for which he is bound by recognizance.

And be it Enacted, That it shall be lawful for the said Chief Remembrancer, in case he shall deem it expedient so to do, to order that the recognizances entered into by the said George O'Callaghan, or such Treasurer as aforesaid, and by his sureties, shall be vacated upon payment by the said George O'Callaghan or his sureties of the sum for which he is now bound by recognizance as aforesaid, such payment to be made into the bank with which the present Treasurer of the County has his public account, to the credit thereof.

6.
Public Act.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

7.
Act may be amended.

And be it Enacted, That this Act may be amended or repealed by an Act to be passed in this present Session of Parliament.

County of Clare Treasurer.

(Ireland.)

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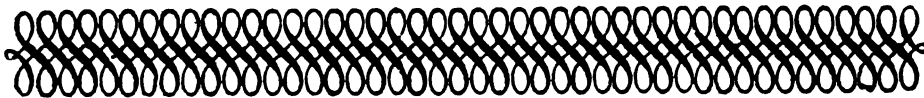
B I L L

To authorize the County of Clare to borrow a Sum of Money for the Relief of the Creditors and others remaining unpaid by reason of the Default of the late Treasurer of the said County, to provide for the Repayment of the same, and to direct Proceedings to be taken in reference to the Default of such late Treasurer.

(Prepared and brought in by
Mr. More O'Ferrall and Lord Viscount Morpeth.)

*Ordered, by The House of Commons, to be Printed,
23 July 1838.*

27 March 1838.—1 VICT.



A

B I L L,

INTITULED,

AN ACT to amend the Law for providing fit
Houses for the Beneficed Clergy.

[Note.—The Figures in the Margin denote the Number of Folios in
the Written Copy.]

- 1 **W**H ~~HEREAS~~ for further promoting the Residence of the Clergy, it is expedient and desirable that the powers and provisions given and made by an Act passed in the seventeenth year of the reign of King GEORGE the Third, intituled, "An Act to promote the Residence of the Parochial Clergy, by making Provision for the more speedy and effectual building, rebuilding, repairing, or purchasing Houses and other necessary Buildings and Tenements for the use of their Benefices," as the same are explained and amended by an Act passed in the twenty-first year of the same Reign, intituled, "An Act to explain and amend an Act made in the seventeenth year of the Reign of his present Majesty, intituled, 'An Act to promote the Residence of the Parochial Clergy, by making Provision for the more speedy and effectual building, rebuilding, repairing or purchasing Houses and other necessary Buildings and Tenements for the use of their Benefices,'" should be extended; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and immediately after the passing of this Act it shall be lawful for the Incumbent of any Benefice to borrow and take up at interest, for the purposes of the said Acts, and also for
- Preamble:
17 G. 3, c. 53.
21 G. 3, c. 66.
1.
Extension of
the Provisions
of recited Acts
relating to the
repairing and
the
250. A

building of
Houses of
Residence.

the purpose of buying or procuring, if necessary, a proper site for a house and other necessary buildings, or for the purposes of the said Acts only, any sum or sums of money not exceeding Three Years' net income of such Benefice, and to take all such proceedings as are required in and by the said Acts (so far as the same are applicable for that purpose), and, as a security for the money so to be borrowed, to mortgage the glebe, tithe, rent-charges, rents, and other profits and emoluments belonging to such Benefice, to such person or persons, corporation or corporations aggregate or sole, as shall lend the same money, by one or more deed or deeds, for the term of Thirty-five Years, or until the money so to be borrowed, with interest for the same, and such costs and charges as may attend the recovery thereof, shall be fully paid and satisfied, according to the terms and conditions of the said Acts (so far as the same are applicable, and not hereby repealed or altered); and that from and after the expiration of the first year of the said term (in which year no part of the principal sum borrowed shall be repayable) the Incumbent shall yearly and every year (such year to be computed from the day of the date of the mortgage) pay to the mortgagee One-thirtieth part of the said principal sum, until the whole thereof shall be repaid, and shall at the end of the first and each succeeding year pay the yearly interest on the said principal sum, or on so much thereof as shall from time to time remain unpaid, in each case according to the terms and conditions of the said Acts, except so far as the same are hereby repealed or altered; and such mortgage deed or deeds shall be made as nearly as may be in the form or to the effect of the form contained in the Schedule to the said Acts, or one of them, and shall bind every succeeding Incumbent of such Benefice until the principal and interest, costs and charges, shall be paid off and discharged as fully and effectually as if such successor had made and executed the same.

2.
Provisions of
Acts which
compel non-
resident In-
cumbents to
pay 10l. per
cent. per ann.
of sum bor-
rowed, re-
pealed as to
future Mort-
gages.

And be it Enacted, That so much of the said Acts as requires the Incumbent of a Benefice mortgaged under the provisions thereof, if non-resident, to pay Ten Pounds per centum per annum of the money originally advanced, and obliges an Incumbent paying Five Pounds per centum per annum to produce a certificate of residence, shall be and the same are hereby repealed as to all mortgages to be made after the passing of this Act.

3.
The yearly
Instalments
of principal
sums secured
by existing
Mortgages to
the Governors
of Queen

And be it Enacted, That for the future, as to every mortgage which has been made to the Governors of the Bounty of Queen ANNE for the augmentation of the maintenance of the poor Clergy, by any Bishop, under the powers of an Act of Parliament specially enabling him, whereby a greater yearly instalment than One-thirtieth part

of

of the principal sum is stipulated to be paid, or by the Incumbent of a Benefice, by virtue of the two before-mentioned Acts, the instalment of the principal sum to be paid in every year to the said Governors or their assigns by such Bishop, or by the Incumbent (whether such Incumbent shall have been resident for the space of Twenty Weeks in the year for which such instalment shall be payable, or not, and without the production of any certificate of such residence), shall be One-thirtieth part of the principal sum originally advanced on such mortgage, in lieu of the yearly instalment thereby stipulated to be paid, until the whole of the said principal sum shall be fully discharged and paid, such substituted yearly instalment to commence and be paid in each case on the day when the next yearly instalment by virtue of the said mortgage shall become due; and mortgages made to the said Governors of the estates of any Bishoprick, or of the glebe, tithes, rents and other profits and emoluments of any Benefice, shall in every case be and remain in force as a security for the yearly instalments of the principal by the said mortgages agreed to be paid, as well as for the payment of the interest arising on such mortgages, and with all the powers and remedies for enforcing the same given by the said respective Acts, until the money borrowed, and all interest for the same, and also all costs and charges which shall be occasioned by the nonpayment thereof, shall be fully paid and discharged, in like manner as if such substituted yearly instalments had been expressly mentioned in and secured by the said mortgages, the expiration of the term of years granted by the said mortgages, or any other cause or matter whatsoever notwithstanding.

Anne's
Bounty, re-
duced.

And be it further Enacted, That it shall be lawful for the said Governors to advance and lend any sum or sums of money not exceeding the sum of One hundred Pounds in respect of each Benefice, out of the money which has arisen or shall from time to time arise from the said Bounty for promoting and assisting the several purposes of the said Acts and of this Act, with respect to any such Benefices as shall not exceed the clear annual improved value of Fifty Pounds, and such mortgage and security shall be made for the repayment of the principal sums so to be advanced as are hereinbefore mentioned, but no interest shall be paid for the same; and in cases where the annual value of such Benefice shall exceed the sum of Fifty Pounds, that it shall and may be lawful for the said Governors to advance and lend for the same purposes any sum or sums of money to the extent authorized by this Act to be borrowed, upon such mortgage and security as aforesaid, and subject to the several regulations of this Act, and to receive interest for the same, not exceeding Four Pounds for One hundred Pounds by the year.

4.
Governors of
Queen Anne's
Bounty may
advance 100*l.*
for Benefices
not exceeding
50*l.* a year,
without Inter-
est.

5.
Colleges, &c.
may advance
Money inter-
est-free to
Benefices in
their Patron-
age for
Houses.

And be it Enacted, That it shall be lawful for any College or Hall within the Universities of Oxford or Cambridge, or for any other corporate bodies possessed of the patronage of ecclesiastical Benefices, to advance and lend any sum or sums of money of which they have the power of disposing in order to aid and assist the several purposes of this Act, for the building, rebuilding, repairing, or purchasing of any houses or buildings for the habitation or convenience of the Clergy, or sites for such houses and buildings, upon Benefices in the patronage of such Colleges or Halls respectively, upon the mortgage and security directed by this Act for the repayment of the principal, without taking any interest for the same.

5

6.
Old Benefice
Houses in
certain cases
may be con-
verted into
Farming
Buildings for
the Tenants
of the Glebe.

And be it Enacted, That when it shall happen that any existing house and offices belonging to any Benefice shall be unfit for the residence of the Incumbent thereof, and shall be incapable of being enlarged or repaired, so as to be rendered fit for his residence, and it shall be so certified to the Bishop of the Diocese wherein such Benefice shall be situate by some competent surveyor or architect, and that it will be advantageous to the Benefice that such house and offices should be suffered to remain, it shall be lawful for such Incumbent, with the consent in writing of such Bishop (such consent to be registered in the registry of such Bishop), to allow such house and offices to remain standing as a dwelling-house and offices, or to convert the same into farming buildings for the use and occupation of the occupier or occupiers of the glebe lands belonging to such Benefice; and from and after the complete erection, or the purchase of a new house and offices, to the satisfaction of the Bishop of the Diocese, such old house and offices shall from thenceforth be used for and converted to the purposes aforesaid; and the house and offices to be so erected or purchased shall from thenceforth to all intents and purposes be deemed and taken to be the residence-house of and for such Benefice, without the necessity of obtaining any license or faculty for that purpose.

7.
Power to
Incumbent
(with con-
sent of Patron
and Ordinary
and Arch-
bishop) to sell
House of
Residence if
inconve-
niently si-
tuated, or
under special
circum-
stances.

And be it Enacted, That where the residence-house, gardens, orchard and appurtenances belonging to any Benefice shall be inconveniently situate, or, for other good and sufficient reasons, it shall be thought advisable to sell and dispose thereof, it shall and may be lawful for the Incumbent of such Benefice, and he is hereby authorized and empowered, with the consent and approbation of the Ordinary and Patron thereof, and of the Archbishop of the Province, to be signified by their executing the deed of conveyance hereby authorized to be made, absolutely to sell and dispose of such house, gardens, orchard and appurtenances, any or either of them, with any land contiguous thereto, not exceeding acres, to any

6

any person or persons whomsoever, either altogether or in parcels, and for such sum or sums of money as to such Ordinary and Patron and Archbishop shall appear fair and reasonable, and upon payment of the purchase-money for the same as hereinafter mentioned by deed indented to convey and assure such house, gardens, orchard, land and appurtenances unto and to the use of the purchaser or purchasers thereof, his or their heirs or assigns, or as he or they shall direct or appoint.

And be it Enacted, That the monies to arise from such sale or sales as aforesaid shall be paid to the said Governors of the Bounty of Queen ANNE; and that the receipt or receipts of the Treasurer for the time being of the said Governors shall be and be deemed and taken to be an effectual discharge to the person or persons paying such monies, or for so much thereof as in such receipt or receipts shall be expressed; and after obtaining such receipt or receipts, such purchaser or purchasers shall be absolutely discharged from the money for which such receipt or receipts shall be given, and shall not be answerable or accountable for the loss, misapplication or non-application of such monies, or any part thereof.

8.
Purchase-
monies to be
paid to the
Governors of
Queen Anne's
Bounty;

7 And be it Enacted, That the monies to arise from such sale or sales as aforesaid shall, after payment of all costs, charges and expenses of such sale or sales, be applied and disposed of by the said Governors in or towards the erection or purchase of some other house and offices, or the purchase of an orchard, garden and appurtenances, or land for the site of a house, any or either of them, together with land contiguous thereto, and not exceeding acres, suitable for the residence and occupation of the Incumbent of such Benefice, and approved of by the said Ordinary and Patron, such approval to be signified under the respective hands of such Ordinary and Patron, and to be deposited in the registry of such Ordinary; and such house shall from thenceforth be deemed and taken to be the house of residence of such Benefice for all purposes whatsoever.

9.
To be applied
to buy or
build a House
for Incum-
bent's Resi-
dence.

And be it Enacted, That in any case in which the consent of the Patron of any Benefice shall be required to the exercise of any power given by this Act, and the patronage of such Benefice shall be in the Crown, the consent of the Crown to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say), if such Benefice shall be above the yearly value of Twenty Pounds in the Queen's Books, the instrument by which the power shall be exercised shall be executed by the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being; and if such Benefice shall not exceed the yearly value of

10.
How consent
of Patron to
be testified
where Patron
age in the
Crown.

250.

A 3

Twenty

Twenty Pounds in the Queen's Books, such instrument shall be executed by the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the time being; and if such Benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, such instrument shall be executed by the Chancellor of the said Duchy for the time being; and the execution of such instrument by such person or persons shall be deemed and taken for the purposes of this Act to be an execution by the Patron of the Benefice. 8

11.
How Consent
to be given
when Patron-
age is attached
to the Duchy
of Cornwall.

And be it Enacted, That in any case in which the consent of the Patron of any Benefice shall be required to the exercise of any power given by the said Acts or by this Act, and the advowson and right of patronage of such Benefice shall be part of the possessions of the Duchy of Cornwall, the consent of the Patron of such Benefice to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say), the instrument by which the power shall be exercised shall be executed by the Duke of Cornwall for the time being, if of full age; but if such Benefice shall be within the patronage of the Crown in right of the Duchy of Cornwall, such instrument shall be executed by the same person or persons who is or are by the said Acts authorized to testify the consent of the Crown to the exercise of any power given thereby in respect of any Benefice in the patronage of the Crown; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of the said Acts and of this Act, to be an execution by the Patron of the Benefice.

12.
How Consent
is to be given
where Patron
is an incapaci-
tated Person.

And be it Enacted, That in any case in which the consent of the Patron of any Benefice shall be required to the exercise of any power given by this Act, and the Patron of such Benefice shall be a minor, idiot, lunatic, or feme covert, it shall be lawful for the guardian or guardians, committee or committees, or husband of such Patron (but in case of a feme covert with her consent in writing) to execute the instrument by which such power shall be exercised in testimony of the consent of such Patron; and such execution shall for the purposes of this Act be deemed and taken to be an execution by the Patron of the Benefice. 9

13.
Remaining
Powers of
recited Acts
extended to
this Act.

And be it Enacted, That all powers, authorities, provisions, forms and matters in the said Acts contained shall, except as is herein otherwise directed, extend and be applicable, mutatis mutandis, to all mortgages and other instruments made, as well under and for the purposes of this Act as of the before-mentioned Acts, and as if the same had been respectively repeated and set forth herein.

And

And be it Enacted, That in the case of a purchase as aforesaid, the several powers and provisions contained in an Act made and passed in the seventh year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act to render more effectual the several Acts now in force to promote the Residence of the Parochial Clergy, by making Provision for purchasing Houses and other necessary Buildings for the use of their Benefices," shall be and the same are hereby extended to this Act for the purposes aforesaid.

14.
In case of a Purchase, the powers of Act 7 G. 4, c. 66, to apply.

And be it Enacted, That every sequestration to be issued under the provisions of the said Act of the seventeenth year of the reign of King GEORGE the Third shall have priority, and the sums to be thereby recovered, shall be paid and satisfied in preference to all other sequestrations and the sums to be thereby recovered, except such sequestrations as shall be founded on judgments duly signed and docketed before the passing of this Act.

15.
Sequestrations under Act 17 G. 3, c. 53, to have priority.

And be it further Enacted, That in the construction of this Act, the word " Benefice " shall be deemed, construed and taken to extend to and comprise all Rectories with cure of souls, Vicarages, Perpetual Curacies and Chapelries, the Incumbents of which respectively in right thereof shall be corporations sole.

16.
Construction of Terms.

Clergy Residences.

A

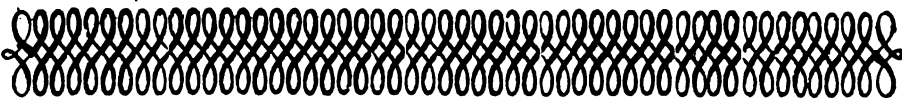
B I L L,

INTITULED,

AN ACT to amend the Law for providing for
Houses for the Beneficed Clergy.

*Ordered, by The House of Commons, to be Printed,
27 March 1838.*

5 February 1838.—1 VICT.



A

B I L L

To continue an Act for regulating the Vend and Delivery of Coals in the Cities of London and Westminster, and in certain Parts of the Counties of Middlesex, Surrey, Kent, Essex, Hertfordshire, Buckinghamshire and Berkshire.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~HEREAS~~ an Act was passed in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, “An Act for regulating the Vend and Delivery of Coals in the Cities of London and Westminster, and in certain parts of the Counties of Middlesex, Surrey, Kent, Essex, Hertfordshire, Bucking-
hamshire and Berkshire :”

Preamble:
1 & 2 Will. 4,
c. 76.

And whereas the term of Seven Years, during which the provisions contained in the said Act were thereby directed to continue in force, will expire on the Thirty-first day of December One thousand eight hundred and Thirty-eight, and it is expedient that the same should be continued; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Act, and all the powers, authorities, directions, provisions, penalties, forfeitures, regulations, clauses, matters and things therein contained, shall be and the same is and are hereby continued for the further term of *Seven* Years from the said Thirty-first day of December One thousand eight hundred and Thirty-eight; and all the provisions, regulations, clauses, matters and things in the said Act contained to take effect at the end of the term of Seven Years therein mentioned, or at any other time or times, shall take effect in the same manner to all intents and purposes as if

1.
Recited Act
continued.

the term of *Fourteen* Years had been inserted in the said Act, instead of the said term of Seven Years.

2.
Expenses of
this Act, how
to be paid.

And be it Enacted, That the costs, charges and expenses incident to and incurred in obtaining and passing this Act, shall be paid and discharged by and out of the money received or to be received in respect of the duty or sum of One Penny per Ton made payable by the said Act. 5

3.
Public Act.

And be it Enacted, That this Act shall be deemed to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

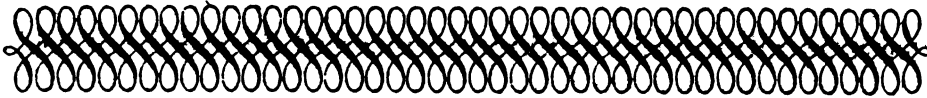
Coal Trade (Port of London.)

A
B I L L

To continue an Act for regulating the Vend and Delivery of Coals in the Cities of London and Westminster, and in certain Parts of the Counties of Middlesex, Surrey, Kent, Essex, Hertfordshire, Buckinghamshire and Berkshire.

(Prepared and brought in by
Mr. Labouchere and Mr. Poulett Thomson.)

Ordered, by The House of Commons, to be Printed,
5 February 1838.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To continue an Act for regulating the Vend and Delivery of Coals in the Cities of London and Westminster, and in certain Parts of the Counties of Middlesex, Surrey, Kent, Essex, Hertfordshire, Buckinghamshire and Berkshire.

[N.B. The Clause marked (A.) and the Schedule marked (D.) were added by the Committee.]

WH~~EREAS~~ an Act was passed in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for regulating the Vend and Delivery of Coals in the Cities of London and Westminster, and in certain Parts of the Counties of Middlesex, Surrey, Kent, Essex, Hertfordshire, Buckinghamshire and Berkshire:"

Preamble:
1 & 2 W.
c. 76.

And whereas the term of Seven Years during which the provisions contained in the said Act were thereby directed to continue in force, will expire on the Thirty-first day of December One thousand Eight hundred and Thirty-eight, and it is expedient that the same should be continued, and that in the respects hereinafter mentioned the said recited Act should be altered and amended;

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Act, and all the powers, authorities, directions, provisions, penalties, forfeitures, regulations, clauses, matters and things therein contained (except such of them or such parts thereof respectively as are repealed, altered or otherwise provided for), shall be and the same

1.
Recited Act
continued.

is and are hereby continued for the further term of Seven Years, from the Thirty-first day of December One thousand Eight hundred and Thirty-eight; and all the provisions, regulations, clauses, matters and things in the said Act contained, to take effect at the end of the term of Seven Years therein mentioned, or at any other time or times, shall take effect in the same manner to all intents and purposes as if the term of Fourteen Years had been inserted in the said Act instead of the said term of Seven Years. 5

2.
Repeal of
so much of
1 & 2 W. 4,
as directs the
Seller's Ticket
to be sent
with Coals.

And be it Enacted, That so much of the said Act as directs that with any quantity of Coals exceeding Five hundred and sixty Pounds, delivered from any lighter, ship, barge or other craft, or from any wharf, warehouse or other place within the Cities of London and Westminster, or within the distance of Twenty-five Miles from the General Post Office in the City of London, the seller or sellers thereof should deliver or cause to be delivered to the purchaser or purchasers thereof, or to his, her or their agent or agents, servant or servants, immediately on the arrival of the cart, waggon or other carriage, or lighter, barge or craft in which such Coals should be sent, and before any of such Coals should be unloaded, a Paper or Ticket in the form therein mentioned, and as imposes a penalty on any such seller or sellers as should not deliver or cause to be delivered such Ticket as therein is mentioned, and a penalty on the carman, driver of, or other person attending any such cart, waggon or other carriage, or the person having the charge of the lighter, barge or craft laden with any such Coals who should refuse or neglect to deliver such Ticket as therein is mentioned, shall, so far as relates to any Coals delivered from and after Sixty Days after the passing of this Act be and the same is hereby repealed. 10 15 20 25

3.
Seller's Ticket
to be sent
with Coals.

And be it Enacted, That with any quantity of Coals exceeding Five hundred and sixty Pounds delivered from and after Sixty Days after the passing of this Act by any cart, waggon or other carriage within the Cities of London and Westminster, or within the distance of Twenty-five Miles from the Post Office aforesaid, the seller or sellers thereof shall deliver or cause to be delivered to the purchaser or purchasers thereof, or to his, her or their agent or agents, or servant or servants, immediately on the arrival of the cart, waggon or other carriage in which such Coals shall be sent, and before any of such Coals shall be unloaded, a Paper or Ticket, according to the form in Schedule (A.) to this Act annexed; and in case any such seller or sellers do not deliver or cause to be delivered such Paper or Ticket as aforesaid to the purchaser or purchasers of such Coals, or to his, her or their agent or agents, or servant or servants, before any part of such Coals are unloaded, every such seller shall for every such offence forfeit and pay any sum not exceeding Twenty Pounds; and in case the carman, driver of or other 30 35 40

other person attending any such cart, waggon or other carriage laden with any such Coals, to whom any such Paper or Ticket shall have been given by or by the orders of the seller in order to be delivered to the purchaser, shall (having so first received the same from the seller, or any person by the direction of the seller) refuse or neglect to deliver such Paper or Ticket to the purchaser or purchasers of such Coals, or to his, her or their agent or agents, or servant or servants, before any part of such Coals shall be unloaded, such carman, driver or other person so offending shall for every such offence forfeit and pay any sum not exceeding Twenty Pounds: Provided always, That Coals delivered to any seller or dealer in Coals, or to any person or persons purchasing the same at the Coal Market, may be delivered without any such Paper or Ticket.

And be it Enacted, That with any quantity of Coals exceeding Five hundred and sixty Pounds delivered from and after Ten Days after the passing of this Act, by any lighter, vessel, barge or other craft within the cities of London and Westminster, or within the distance of Twenty-five Miles from the Post Office aforesaid, the seller or sellers thereof shall deliver or cause to be delivered to the purchaser or purchasers thereof, or to his, her or their agent or agents, or servant or servants, immediately on the arrival of the lighter, vessel, barge or other craft in which such Coals shall be sent, and before any of such Coals shall be unloaded, a Paper or Ticket setting forth in words at length the number of tons to be delivered, and the name of the Coals, together with the name and number of the lighter, vessel, barge or other craft, and the name of the seller or sellers, and also the name of the lighterman; and in case any such seller or sellers do not deliver or cause to be delivered such Paper or Ticket as aforesaid to the purchaser or purchasers of such Coals, or to his, her or their agent or agents, or servant or servants, before any part of such Coals are unloaded, every such seller shall for every such offence forfeit and pay any sum not exceeding Twenty Pounds; and in case the person having the charge of the lighter, vessel, barge or craft laden with any such Coals, to whom any such Paper or Ticket shall have been given by or by the orders of the seller in order to be delivered to the purchaser, shall (having so first received the same from the seller or any person by the direction of the seller) refuse or neglect to deliver such Paper or Ticket to the purchaser or purchasers of such Coals, or to his, her or their agent or agents, or servant or servants, before any part of such Coals shall be unloaded, the person so offending shall for every such offence forfeit and pay any sum not exceeding Twenty Pounds: Provided always, That Coals delivered to any seller or dealer in Coals, or to any person or persons purchasing the same at the Coal-market, may be delivered without any such Paper or Ticket.

4.
A Paper or
Ticket to be
sent with
Coals deli-
vered from
Lighters.

5.
Allowing an even beam with scales and weights to be sent with the cart, &c. instead of the Weighing-machine.

And be it Enacted, That no weighing-machine shall be deemed a perfect weighing-machine within the meaning of the said Act, unless proper weights shall be carried therewith, and also that any other just balance, with an even beam and legal weights, shall be deemed a perfect weighing-machine within the meaning of the said Act, without having been marked at Guildhall; and if any carman or driver required to carry a weighing-machine by the said Act and this Act shall have placed in, on or under his cart, waggon or other carriage, any beam or scales or other weighing-machine or any weights which shall be imperfect or improper for the purpose of denoting the weight of Coals, then and in every such case every such carman or driver, or person delivering such Coals shall for every such offence forfeit and pay any sum not exceeding Five Pounds, and the seller or sellers of, or dealer or dealers in, or carrier or carriers of such Coals, shall forfeit and pay any sum not exceeding Ten Pounds.

6.
Repeal of the Penalty on preventing persons other than the Purchaser or his Servant from examining the Weighing-machine or weighing the sacks of Coals.

And be it Enacted, That so much of the said Act as imposes a Penalty on any carman or driver of any cart, waggon or other carriage in which Coals shall be carried in sacks for delivery to the purchaser or purchasers thereof, for hindering, obstructing or otherwise preventing the purchaser or purchasers of such Coals, or his, her or their servant, or any other person or persons whomsoever, from examining the weighing-machine, which in pursuance of the said Act shall be placed in, on or under such his cart, waggon or other carriage, or weighing all or any of the sack or sacks of Coals in such his cart, waggon or other carriage, shall, so far as relates to the hindering, obstructing or otherwise preventing, as aforesaid, any person or persons other than the purchaser or purchasers of such Coals, or his, her or their servant, be and the same is hereby repealed.

7.
Repeal of provision directing Fines, &c. to be sued for within One calendar Month, and such Fines, &c. to be sued for within Three calendar Months.

And be it Enacted, That so much of the said Act as directs that fines, penalties or forfeitures, not exceeding Twenty-five Pounds, shall be sued for within One calendar Month after the offence or offences committed, shall be and the same is hereby repealed; and that from and after the passing of this Act, all fines, penalties or forfeitures by the said Act, or by virtue of the powers and authorities thereof, or by this Act imposed, the manner of levying and recovering whereof is not otherwise provided for, not exceeding Twenty-five Pounds, shall be sued for within Two calendar Months after the offence or offences committed.

8.
Repeal of so much of 1 & 2 W. 4. as directs Fitter's Affidavit to be transmitted to the Clerk of the Coal-market every

And be it Enacted, That so much of the said Act as directs that every Fitter who should send or give any such certificate as therein mentioned to the Clerk of the Coal-market in manner therein mentioned, should on or before the expiration of Three calendar Months next after the same should have been given, send, in a letter directed to the Clerk of the Coal-market, an Affidavit according to the form in the Schedule

Schedule to the said Act annexed, sworn by him before a Justice of the Peace, and also so much of the said Act as directs, that in case it should happen that such Fitter's certificate should be accidentally lost, or in case any such ship or vessel should have been originally loaded or entered outwards for exportation, and should afterwards change her destination, and arrive or come into the Port of London without any such Fitter's certificate having been obtained or provided, each and every Master of such ship or vessel should deliver an account of the quantity and name or description of the Coals on board his ship or vessel at the office of the Clerk of the Coal-market, together with an affidavit to accompany such account, and to be sworn by such Master before any Justice of the Peace; and as imposes a penalty on any master of any ship or vessel who should knowingly give in any false certificate or account as aforesaid to be registered, or who should not, when no certificate should have been sent by post within Twenty-four Hours after the arrival of the ship at her moorings within the port of London, deliver or cause to be delivered in, his certificate, or such account and affidavit, to be registered in manner aforesaid, shall from and after the passing of this Act be and the same is hereby repealed.

Three Months, and as directs an Affidavit of the Master to be made in case of loss of Fitter's Certificate.

And be it Enacted, That every Fitter, who from and after the passing of this Act shall send or give any such certificate as aforesaid, shall on or before the expiration of One calendar Month next after the same shall have been given, send, in a letter directed to the said Clerk of the Coal-market, and put into the General Post-office, or delivered at the office of the said Clerk of the Coal-market, a Declaration, to be made before any Justice of the Peace, or any Master Extraordinary in Chancery or Commissioner for taking affidavits in any of Her Majesty's Courts at Westminster, according to the form in Schedule (B.) to this Act annexed, pursuant to an Act passed in the sixth year of the reign of King WILLIAM the Fourth, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits,' and to make other Provisions for the Abolition of unnecessary Oaths," in which declaration such Fitter shall verify such certificate alone or together with any other certificates which may have been sent or given by him in the meantime; and in case any such Fitter shall omit or refuse to send the said Declaration to the said Clerk of the Coal-market in manner aforesaid on or before the expiration of every Calendar Month, he shall for every such offence forfeit and pay any sum not exceeding One hundred Pounds; and in case it shall happen that such Fitter's certificate shall be accidentally lost, or in case any such ship or vessel shall have been originally loaded or entered outwards for exportation, and

9. Fitter to transmit a declaration to the Coal-market every month; and master to make declaration in case of loss of certificate, &c.

c. 62.

shall afterwards change her destination, and arrive or come into the Port of London, without any such Fitter's certificate having been obtained or provided, then and in either of such last-mentioned cases, each and every master of such ship or vessel shall deliver or cause to be delivered an account of the quantity and name or names, or description or descriptions of the coals on board of such his ship or vessel, at the office of the Clerk of the Coal-market, together with a declaration to accompany such account, pursuant to the said Act of the sixth year of the reign of King WILLIAM the Fourth, in which declaration such master shall state and verify such circumstances either of the accidental loss of any such certificate, or of any such ship having been originally entered outwards, and having afterwards changed her destination and arrived as aforesaid without any such certificate having been obtained or provided (as the case may be); and in case any master of any ship or vessel shall knowingly give in any false certificate or account as aforesaid to be registered, or shall not, when no certificate shall have been sent by the post within Twenty-four Hours after the arrival of his ship at her moorings in the port of London, deliver or cause to be delivered in his certificate, or such account and declaration as aforesaid, to be registered in manner aforesaid, every person so offending shall, for every such offence, forfeit and pay any sum not exceeding One hundred Pounds.

10.
Allowance of
Drawback.

And be it Enacted, That there shall be allowed in the cases hereinafter mentioned, upon the exportation from the Port of London of Coals exceeding in quantity in one vessel Twenty Tons, which shall not have been landed, a drawback of the full amount of all the rates or duties which shall have been paid in respect of such Coals, and in every case in which the owner of any such Coals, or his agent, is desirous of obtaining such drawback, he shall give Notice to the Clerk of the Coal-market, according to the form Number (1.) in Schedule (C.) to this Act annexed; and in case the Clerk of the Coal-market shall not be satisfied with the Coal-weigher named in such Notice, he may refuse to grant any certificate, but if and when the Clerk of the Coal-market shall be satisfied with the Coal-weigher named in such Notice, he shall grant to the owner of the Coals or his agent a Certificate according to the Form Number (2.) in Schedule (C.) to this Act annexed; and after such Certificate shall have been granted, the Coals intended to be exported shall be weighed or delivered out of one vessel, either by lighter or otherwise, into the other; and thereupon the master of the vessel out of which such Coals shall be weighed or delivered shall give a Certificate to such Coal-weigher according to the Form Number (3.) in Schedule (C.) to this Act annexed; and the Master of the vessel into which such Coals shall be delivered, shall give a Certificate to such Coal-weigher, according to the Form Number (4.) in Schedule (C.)

to

to this Act annexed ; and such Coal-weigher shall deliver such two last-mentioned Certificates to the Clerk of the Coal-market, together with another Certificate, to be signed by such Coal-weigher, according to the Form Number (5.) in Schedule (C.) to this

5 Act annexed ; and upon the receipt of such three Certificates as last aforesaid, and upon the production of a Certificate from the proper Officer of Her Majesty's Customs, that the Vessel mentioned in such Certificates, into which the Coals have been delivered, hath sailed from the Port of London with such Coals

10 on board the same, the Clerk of the Coal-market shall give to the owner of such Coals or his agent an order for the payment of such drawback according to the form Number (6.) in Schedule (C.) to this Act annexed ; and in every case in which any part of the Coals (exceeding in quantity Twenty Tons in one Vessel) upon which all

15 the rates or duties shall have been paid, shall, without having been landed or transhipped, be left in and exported by the same vessel, the Clerk of the Coal Market, if he shall be satisfied that the Vessel in which such Coals have been left, has sailed from the Port of London with such Coals on board the same,

20 but not otherwise, shall give to the owner of such Coals or his agent an order for the payment of such drawback, according to the form Number (7.) in Schedule (C.) to this Act annexed ; and upon the receipt and delivery of any such order as hereinbefore is mentioned for the payment of drawback at the Chamber of the

25 City of London, the Chamberlain shall pay to the bearer of such order the drawback therein ordered to be paid ; and if the master of any vessel or any coal-weigher shall, in any certificate to be given according to the directions hereinbefore contained, state any circumstance which is not true for the purpose of enabling the owner

30 of such Coals or his agent to obtain any such drawback as aforesaid, or if any lighterman or other person employed to carry such Coals from one Vessel to another, shall not deliver the whole quantity of such Coals into the Vessel named in the certificate, every such master or coal-weigher, lighterman or other person, so offending shall

35 for every such offence forfeit and pay any sum not exceeding One hundred Pounds.

And be it Enacted, That in case the master of any vessel laden with Coals shall within Ten Days after the arrival of such vessel in the Port of London, and being duly entered at the Office

40 of the Clerk of the Coal-market, be desirous of departing from the said Port without discharging any part of the Coals on board such vessel, the master of such vessel shall deliver a Notice thereof to the Clerk of the Coal-market according to the form Number (1.) in Schedule (D.) to this Act annexed ; and if no part of the cargo of such vessel has been delivered in the Port of

485. London,

11.
CLAUSE (A.)
 Vessels laden
 with Coals
 departing
 without dis-
 charging their
 cargo to be
 exempt from
 payment of
 Duties upon
 obtaining
 Permit.

London, the Clerk of the Coal-market shall deliver to the master of such vessel a Permit according to the form Number (2.) in Schedule (D.) to this Act annexed ; and upon the receipt of such Permit from the Clerk of the Coal-market it shall be lawful for the said vessel to sail or depart from the Port of London without having paid the duties upon such cargo, any statute, charter, usage or custom to the contrary notwithstanding: Provided always, That in case any part of the cargo of such vessel shall have been delivered in the Port of London, the master of such vessel and all other persons concerned shall be liable to and pay the Penalties in the said Act of the first and second Years of the reign of King WILLIAM the Fourth contained, for breaking bulk without payment of duties.

12.
Persons other than the regular Crew employed in unloading Colliers to be paid their wages every day.

And be it Enacted, That every master or person having the command of any vessel laden with Coals in the Port of London, in which any person or persons not being part of the regular crew of such vessel shall be employed in the discharge or delivery of Coals from such vessel, shall pay to every such person so employed on board such vessel, every day before such person shall leave such vessel, the wages to be paid to such person for or in respect of such employment on such day ; and if any such person shall not be paid such wages in manner aforesaid, or shall be paid the whole or any part thereof at any other place than on board such vessel, such master or person having the command of such vessel shall for every such neglect to pay, and every such payment in any other place as aforesaid, forfeit and pay any sum not exceeding Ten Pounds.

13.
Bye-laws for regulating Coal Vessels in the Port of London, to be made by the Corporation of London, and allowed by the Board of Trade.

10 Geo. 4, c. 124.

AND whereas great inconvenience has been caused to the navigation of the Port of London, in consequence of the collection of large numbers of vessels laden with Coals in different parts of the said Port: AND whereas it is expedient that the Mayor, Aldermen and Commons of the City of London, in Common Council assembled, should, in exercise of the powers vested in them for that purpose by an Act passed in the tenth year of the reign of King GEORGE the Fourth, intituled, " An Act for altering and amending the Powers of an Act of the thirty-ninth year of the reign of King GEORGE the Third for rendering more commodious and for better regulating the Port of London," make bye-laws for remedying the inconveniences aforesaid, and that such bye-laws should be subjected to the consideration and supervision of the Committee of Her Majesty's Privy Council for managing the Affairs of Trade ; BE it therefore Enacted, That within Three calendar Months next after the passing of this Act, the Mayor, Aldermen and Commons of the City of London, in Common Council assembled, shall and they are hereby required to make such bye-laws as shall be necessary for regulating or removing

removing vessels laden with Coals, and otherwise remedying the inconveniences hereinbefore mentioned ; and shall from time to time alter and vary such bye-laws as shall be necessary : Provided always, That all bye-laws which shall relate to the navigation of the River Thames by vessels engaged in carrying Coals, or returning in ballast from carrying Coals, within the said Port of London, which shall from and after the passing of this Act be made, altered or varied by the Mayor, Aldermen and Commons of the City of London, in Common Council assembled, shall be submitted to the Committee of Her Majesty's Privy Council for managing the Affairs of Trade, for their consideration and supervision ; and such bye-laws shall not have legal effect until Eight Weeks after they shall have been so submitted to the Committee aforesaid ; and it shall be lawful for such Committee as aforesaid to approve of and sanction such bye-laws, or to suggest such alterations and amendments therein, or from time to time to suspend or rescind the same, as to them shall seem fit ; and if the said Mayor, Aldermen and Commons, in Common Council assembled, shall concur in the said amendments, or if the said bye-laws shall be approved without alteration, then and in that case the bye-laws so sanctioned or amended shall be forthwith made public in manner hereinafter mentioned, and shall have full legal effect at the expiration of Four Weeks after such publication ; but no bye-law shall have legal effect unless in accordance with the expressed or implied sanction of the said Committee : Provided also, That if the said Committee shall for Four Weeks after the receipt of any such bye-laws fail to express an opinion on the bye-laws so submitted to them, then and in that case it shall be lawful for the said Mayor, Aldermen and Commons, in Common Council assembled, at the termination of such Four Weeks, to make public such bye-laws, in manner hereinafter mentioned ; and such bye-laws shall have full legal effect at the termination of Four Weeks from the time of the publication thereof : Provided also, That before any such bye-laws as aforesaid shall have legal effect, the same shall be made public by the advertisement thereof Twice in the London Gazette in Two succeeding Weeks, and by affixing copies thereof to some conspicuous place or places in the Coal-market and Custom-house in the City of London, and in the Custom-house at Gravesend, and in such other manner as to the said Mayor, Aldermen and Commons, in Council assembled, shall seem fit : Provided also, That no such regulations which apply exclusively to the Coal Trade shall prevent any Vessel from remaining with the cargo thereof unsold within the Port of London, for a period not exceeding Fifteen Days.

14.
Expenses of
this Act how
to be paid.

And be it Enacted, That the costs, charges and expenses incident to and incurred in obtaining and passing this Act shall be paid and discharged by and out of the money received or to be received in respect of the duty or sum of One Penny per Ton, made payable by the said Act of the first and second years of the reign of King WILLIAM the Fourth.

5

15.
Public Act.

And be it Enacted, That this Act shall be deemed to be a Public Act ; and shall be judicially taken notice of as such by all Judges, Justices and others.

THE

THE SCHEDULES

TO WHICH THE FOREGOING ACT REFERS.

SCHEDULE (A.)

Mr. A. B., [here insert the Name of the Buyer], Take notice, That you are to receive herewith [here insert the Number] Tons [here insert the Name of the Coal, if any particular sort is ordered or contracted for, and if ordered or contracted for as Wall's End, specify the Name of the Colliery] Coals in [here insert the Number] Sacks, containing [here insert the Weight] Pounds of Coal in each Sack.

(signed) C. D., [here insert the Name or Names of the Seller or Sellers in words at full length].

E. F., [here insert the Name of the Carman in words at full length].

It is directed that with any quantity of Coals exceeding Five hundred and sixty Pounds, a Paper or Ticket describing the quantity, and if any particular sort is ordered or contracted for, the sort of the Coals sent by the seller, shall be delivered to the purchaser, or his agent or servant, before any part of such coals shall be unloaded; that a weighing-machine or proper scales and weights shall be carried with every waggon, cart or other carriage, and the carman is required to weigh gratuitously any Sack or Sacks of Coals which shall be chosen by the purchaser or his agent or servant; and if any carman refuses to weigh such Sack or Sacks of Coals as aforesaid, or drives away the waggon, cart or other carriage before the Coals are weighed, or otherwise obstructs the weighing thereof, he is liable to a penalty not exceeding Twenty Pounds; also that a proper machine or proper scales and weights for weighing Coals shall be kept at every watchhouse or police station, and at any other place appointed for that purpose by two or more of Her Majesty's Justices of the Peace.

SCHEDULE (B.)

I, A. B., of _____, do solemnly and sincerely declare, That the Schedule hereunder written and signed by me, contains a true account and particular of all the Coals vended and shipped by me [and C. D. of _____, my partner, as the case may be] for delivery in the Port of London, from the _____ day of _____ to the _____ day of _____, both inclusive; and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act passed in the sixth year of the reign of King WILLIAM the Fourth, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits,' and to make other Provisions for the Abolition of unnecessary Oaths:—"

(signed)

A. B.

Day of the Month and Year of Lading.	Ship's Name.	Master's Name.	Quantity of Tons.	Name of Colliery.	Price paid.	Certificate sent by Post or delivered to the Master.

[illegible]

C. D.

Clerk and Registrar of the Coal-market.

Mr. C. D. having given me Notice that he intends to tranship from the Ship [here insert the name] of [here insert the name of the place to which the Ship belongs,] G. H., Master, [here insert the number] Tons of [here insert the name] Coals for exportation to [here insert the name of the place to which the Coals are to be exported,] in the Ship [here insert the name,] of [here insert the name of the place to which the Ship belongs,] J. K., Master, and that you are appointed to weigh or superintend the delivery of the same, I do hereby give you Notice, That I shall require, before I can allow the claim for drawback, a Certificate from you of such transshipment; [and if the same be done by means of Barges, the Certificate must contain the names of the Barges and Lightermen employed, and the number of tons put into each Barge.] Dated
this day of One thousand
eight hundred and

E. F., Clerk and Registrar of the Coal-market.

To Mr. A. B., Coal-weigher.

I HEREBY certify, That [here insert the number of Tons, or the whole Cargo, as the case may be] of [here insert the name] Coals have been weighed or delivered out of the Ship [here insert the name]

[14]

name] of [here insert the name of the place to which the Ship belongs,] to be transhipped [or, delivered by the means of Barges, as the case may be] on board the Ship [here insert the name] of [here insert the name of the place to which the Ship belongs,] for [here insert the name of the place to which the Coals are to be exported.] Witness my hand this day of
One thousand eight hundred and

(signed) G. H., Master of the

To Mr. E. F.,

Clerk and Registrar of the Coal-market.

(No. 4.)

I HEREBY certify, That [here insert the number] Tons of [here insert the name] Coals have been received from the Ship [here insert the name] of [here insert the name of the place to which the Ship belongs] on board of the Ship [here insert the name] of [here insert the name of the place to which the Ship belongs] for exportation to [here insert the name of the place to which the Coals are to be exported]. Witness my hand.
this day of
One thousand eight hundred and

(signed) J. K., Master of the

To Mr. E. F.,

Clerk and Registrar of the Coal Market.

(No. 5.)

I HEREBY certify, That [here insert the number] Tons of [here insert the name] Coals were this day weighed, or delivered, out of the Ship [here insert the name] of [here insert the name of the place to which the Ship belongs] to be transhipped [or, delivered by the means of Barges, as the case may be] on board the Ship [here insert the name] of [here insert the name of the place to which the Ship belongs] for exportation, and that the same were put on board the following Barges [here insert the names of the Barges and Lightermen employed.] Witness my hand this
day of One thousand eight hundred and

(signed) A. B., Coal-weigher.

To Mr. E. F.,

Clerk and Registrar of the Coal-market.

To L. M.,
Chamberlain, Guildhall, London.

To L. M.,
Chamberlain, Guildhall, London.

(No. 1.)

485.

you notice that I intend to proceed with the said Ship or Vessel to [here insert the name of the place to which the Ship or Vessel is to proceed,] without discharging any part of the said cargo in the Port of London ; and I request to be relieved from the City Dues of One Shilling and One Penny per Ton, agreeably to the Act of the first year of the reign of Queen VICTORIA, chapter

Dated this day of One thousand eight hundred and

(signed) I. K.

To Master of the

Mr. E. F., Clerk and Registrar
of the Coal-market.

(No. 2.)

HAVING received notice from [here insert the name], Master of the Ship or Vessel called the [here insert the name], of [here insert the name of the place to which the Ship or Vessel belongs] laden with [here insert the number] Tons of [here insert the name] Coals that he intends proceeding with the said Ship or Vessel to [here insert the name of the place to which the Vessel is to proceed] without discharging any part of the said Coals in the Port of London, and requesting by virtue of the Act of the first year of the reign of Queen VICTORIA, chapter to be relieved from the payment of the City Dues thereon ; I do hereby, agreeably to the said Act, permit the said Vessel to depart from this Port for [here insert the name of the place to which the Vessel is to proceed] without paying the City Dues on the said Coals ; provided that no part is unladen within the limits of the City of London, and that a Certificate is produced to me from the Clearing Officer of Her Majesty's Customs, that the said Ship or Vessel has so departed for [here insert the name of the place to which the Vessel is to proceed] as aforesaid. Dated this day of
One thousand eight hundred and

(signed) E. F.

Clerk and Registrar of the Coal-market.

To

The Master or Owner of the Ship

Coal Trade (Port of London).

A

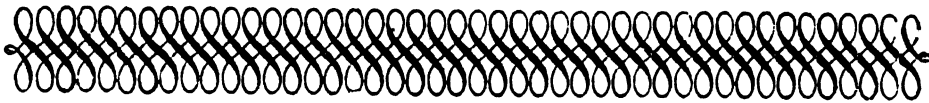
B I L L

[AS AMENDED BY THE COMMITTEE]

To continue an Act for regulating the Vend
and Delivery of Coals in the Cities of
London and Westminster, and in certain
Parts of the Counties of Middlesex, Surrey,
Kent, Essex, Hertfordshire, Buckingham-
shire and Berkshire.

(Prepared and brought in by
Mr. Labouchere and Mr. Poulett Thomson.)

Ordered, by The House of Commons, to be Printed,
13 June 1838.



A

B I L L

To amend an Act of the Thirteenth Year of the Reign of King GEORGE the Third, for the better Cultivation, Improvement and Regulation of the Common Arable Fields, Wastes and Commons of Pasture in this Kingdom.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ by an Act passed in the thirteenth year of the reign of his late Majesty King GEORGE the Third, intituled, “ An Act for the better Cultivation, Improvement and Regulation of the Common Arable Fields and Pastures of this Kingdom,”

Preamble :

13 Geo. 3,
c. 81.

- 5 it was amongst other things enacted, that in every Manor where there are stinted Commons, in lieu of demising or leasing part thereof (in the manner and for the purposes in the said recited Act mentioned) one or more assessment or assessments upon the Lord or Lords, Lady or Ladies of such Manor, and the persons being owners
- 10 or occupiers of such Commons or their agents or managers, shall or may, at their option, be made, levied and collected by such person and persons and allowed in such manner as the Lord or Lords, Lady or Ladies of such Manor, and the major part in number and value of the owners or occupiers of such Commons present at a
- 15 meeting to be held within the said Manor, in pursuance of Fourteen Days’ notice to be given by the Lord or Lords, Lady or Ladies, or his, her or their agent, in the manner in the said Act mentioned, of the time and place of meeting for that purpose, shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for according to the orders and directions of the said Lord or Lords, Lady or Ladies, and such majority of the
- owners

owners and occupiers as aforesaid, in the improvement of such Commons, from time to time, as need shall require; and the said assessments shall, by virtue of a warrant under the hand and seal of One Justice of the Peace be levied by distress and sale of the goods and chattels of every person so assessed and not paying the same within Ten Days after being demanded, rendering the overplus of the value of the goods so distrained (if any) to the owner or owners thereof, the necessary charges of making such distress and sale being first deducted: 5

And whereas there are various Common Lands, not being stinted Commons, for the fencing, draining and improvement of which the provisions of the said recited Act may be beneficially applied; 10

1. The provisions of the said Act, so far as the same recited or referred to, extended to all Commons. ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said recited Act as is hereinbefore mentioned shall extend to all cases of Common or Waste Land, whether the same shall be within the precincts of any manor or otherwise, and whether the same shall be stinted or unstinted; and all monies which may be raised under the authority of the said recited Act, by the ways and means in the said recited Act mentioned, shall be expended from time to time in the manner and under the directions in the said recited Act contained, in the fencing, draining and improving such Common Lands from time to time as may be expedient. 15 20 25

2. No assessment to be made on persons only possessing right of Turbary. Provided always, and be it Enacted, That no Assessment shall be made on any person or persons whomsoever for the purposes aforesaid, who may only possess a Common of Turbary on such Commons; but such assessments shall be made and levied exclusively on the Lord or Lords, Lady or Ladies and the several persons possessing Rights of Common of Pasture on such Commons. 30

3. Interest of Owners to be ascertained according to the Poor Rate. And be it Enacted, That the interest of the several persons, Owners of the said Common Lands, and the commonable rights thereon, shall for the purposes of this Act be ascertained by the Assessments of the said Common Lands, or of the several lands and tenements in respect of which such Rights of Common are claimed and enjoyed, or of the said Rights of Common themselves, to the Rate which may be subsisting for the time being for the relief of the Poor in the several parishes or townships wherein such Commons may be situate. 35 40

4. Appeal. And be it Enacted, That it shall be lawful for all persons who shall think themselves aggrieved by any thing which may be done by virtue of 45

of this Act, or the said recited Act, to appeal to the General or Quarter Sessions of the Peace which shall be held in or for the county, riding or division wherein the Common Lands or the greater part thereof in respect of which the matter of complaint may arise shall be situated, or at any adjournment thereof, within *Six* calendar Months next after the cause of complaint shall have arisen, first giving or causing to be given *Twenty-eight* Days' Notice in writing to the parties intended to be appealed against, setting forth the cause and matter of such Appeal; and the Appellant, on the hearing of such Appeal, shall not be allowed to go into any other matter than what is stated in his said notice; and the Justices, at their said Quarter Sessions or at any adjournment thereof, are hereby authorized and required to hear and determine the matter of every such Appeal, and to make such order in every such case respectively, and to award such costs as to them in their discretion shall seem meet, and by their warrant to levy such costs by distress and sale of the goods and chattels of the parties adjudged to pay the same, rendering the overplus (if any) to the respective owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and every determination of the said Justices shall be final and conclusive on all parties concerned; and no such complaint, appeal or proceeding shall be removed or removeable by certiorari, or any writ or proceeding whatever, into any of Her Majesty's Courts of Record at Westminster or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious or without foundation, then the said Justices shall award such costs to be paid by the Appellant or Appellants as to them in their discretion shall seem reasonable, and to be levied in manner aforesaid.

And be it Enacted, That this Act may be altered, amended or repealed by any Act or Acts to be passed in this present Session of Parliament.

5.
Act may be
altered, &c.

Common Fields' Improvement.

A

B I L L

To amend an Act of the Thirteenth Year of the Reign of King GEORGE the Third, for the better Cultivation, Improvement and Regulation of the Common Arable Fields, Wastes, and Commons of Pasture in this Kingdom.

(*Prepared and brought in by
Lord Worsley and Mr. Pendarves.*)

*Ordered, by The House of Commons, to be Printed,
12 December 1837.*

9 February 1838.—1 VICT.



A

B I L L

To amend an Act of the Sixth and Seventh Years of King
WILLIAM the Fourth, for facilitating the Inclosure of Open
and Arable Fields in *England* and *Wales*.

WH~~EREAS~~ an Act was passed in the sixth and seventh years
of the reign of his late Majesty King WILLIAM the Fourth,
intituled, "An Act for facilitating the Inclosure of Open and Arable
Fields in *England* and *Wales*;" and thereby provisions were made for
5 the inclosure of open and common Arable Fields (including untitled
slips or balks therein) and of open and common Meadow or Pasture
Lands or Fields in any parish, township or place in *England* or *Wales*,
known by metes and bounds, or occupied according to known and
legal rights, except open or common Meadow or Pasture Lands or
10 Fields situate and being within Ten miles of the city of *London*, or
any open or common Meadow or Pasture Lands or Fields situate and
being within One mile of any city or town of Five thousand inhabitants,
or within One mile and a half of any city or town of Fifteen thousand
15 inhabitants, or within Two miles of any city or town of Thirty thou-
sand inhabitants, or within Two miles and a half of any city or town
of Seventy thousand inhabitants, or within Three miles of any city or
town of One hundred thousand inhabitants; and to extinguish the
right of intercommonage which should exist, as well over as in respect
20 of the Lands so to be inclosed; and it was thereby enacted, that
nothing therein contained should in any case authorize the inclosure
of any waste whatsoever, whether the soil thereof should or should
not be vested in the lord of any manor, and whether with or without
the assent of the lord of such manor:

Preamble:
6 & 7 W. 4,
c. 115.

Doubts as to
extent of Act,
and expedi-
ency of
amending it.

And whereas inclosures have been commenced, and to a certain extent, proceeded with, under the provisions of the said Act, but doubts are entertained as to the extent of the said Act, and (having reference to the very beneficial objects contemplated thereby) it is desirable that such doubts should be removed, and the powers thereof extended, that all proceedings under the said Act, in relation to lands considered to be within its operation, should be confirmed, and that further provisions should be made in regard to the matters aforesaid ;

1.
Act declared
to apply to
other com-
monable
Lands than
open Field
Lands.

Proceedings
under Act as
to such Lands
confirmed.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said hereinbefore in part recited Act of the sixth and seventh of WILLIAM the Fourth was meant and intended to apply, and that the same shall be adjudged and construed to apply and extend not only to open Field Lands, but to all Arable, Meadow and Pasture Lands and Fields, common Meadows, common Pastures, Commons, and other commonable and waste lands and grounds ; and that all proceedings which have been had under the said Act, in regard to any such Arable, Meadow and Pasture Lands and Fields, common Meadows, common Pastures, Commons, and other commonable and waste lands and grounds as aforesaid, shall be and the same are hereby confirmed and declared to be valid and effectual to all intents and purposes whatsoever.

2.
Consent of
Lords of
Manors hav-
ing a right
of Soil neces-
sary.

And be it Enacted, That on any inclosure under the said recited Act and this Act, or either of them, the consent of the lord or lady, lords or ladies for the time being of any manor of which any lands proposed to be inclosed shall be parcel, and who shall be the owner or owners of the soil of such lands or any of them, shall, although he, she or they shall have no other estate, interest or right in, to or over such lands, be necessary to the validity of any such inclosure ; and where any such manor shall be vested in possession in any ecclesiastical or other corporation, or in any tenant for life or in tail, or for any other partial or qualified estate or interest, or in any feoffees or trustees for charitable or other purposes, the consent of such corporation or other persons, or of the husband, guardian or committee of the estate of any such persons, who shall be a married woman, infant, idiot or lunatic, shall be sufficient for the purposes aforesaid ; and where such consent shall be requisite, the same shall be signified in writing at any time before the completion of the inclosure.

3.
Allotments
and Compen-
sation to Lords
for right of
Soil.

And be it Enacted, That in all cases in which such consent shall have been given as aforesaid, it shall be lawful for the Commissioner or Commissioners who shall be or shall have been appointed for the purpose of effecting any inclosure under the said recited Act and this Act, or either

either of them, if he or they shall think fit, and also for the persons who, under the provisions of the said recited Act, shall, without the intervention of Commissioners, agree to make any such inclosure as aforesaid, to make any allotment in respect of the right of soil of the lord or lady of the manor for the time being in the lands proposed to be inclosed, or any of them, or to direct any compensation to be made in respect of such right of soil, and by whom and in what manner such compensation shall be paid; and any such allotment shall be considered to all intents and purposes, and in regard to the limitations thereof and the title thereto, and to all other provisions and matters whatever, as an allotment made under the provisions of the said recited Act, and as if such provisions were here repeated and in express terms applied to allotments for right of soil; and that any such compensation as aforesaid shall be paid and applied in the manner directed by the said recited Act in regard to compensations for rights under the provisions of the same Act; and that all money compensations payable under the said recited Act and under this Act, or either of them, shall be considered as a part of the expenses of the persons by whom the same shall be payable of the inclosure to which the same shall apply, and shall be raisable in the same manner as the general expenses of such inclosure are made raisable by the said recited Act.

And be it Enacted, That all disputes and differences in relation to any allotment or compensation in respect of right of soil shall be determined in the manner provided in the said recited Act in respect to allotments to be made under the same Act.

4.
Settlement of
Disputes as to
Allotment and
Compensation
to Lords.

AND whereas doubts have been entertained whether the power to make exchanges, which is contained in the said recited Act, applies to lands which are not adjoining to open and common lands or fields to be inclosed under the same Act; BE it therefore Enacted, That on any inclosure to be made under the said recited Act and this Act, or either of them, any lands, tenements or hereditaments within any parish, township or place in which any lands proposed to be allotted and inclosed shall be situate, shall be adjudged and considered to be lands, tenements or hereditaments which may be set out, allotted and awarded by way of exchange under the provisions for that purpose contained in the said recited Act.

5.
Clause as to
Exchanges ex-
plained.

And be it Enacted, That it shall be lawful for the Commissioner or Commissioners who shall be or shall have been appointed for the purpose of effecting any inclosure under the said recited Act and this Act, or either of them, with the consent in writing of the Proprietor or Proprietors of any old inclosed lands, tenements or hereditaments within the parish, township or place in which the lands to be allotted and inclosed are situated, or any of them, whether such Proprietor or

6.
Power to
allot old In-
closures with
consent of
Proprietors.

Proprietors shall be a body or bodies politic, corporate or collegiate, corporation aggregate or sole, rector, parson or vicar, or other ecclesiastical person or persons, or a tenant or tenants in fee-simple or for life, or in fee-tail, special or general, or by the courtesy of *England*, or for years determinable on any life or lives, by and with the consent of the lessor or lessors, but not otherwise, or with the consent of the guardians, husbands, committees or attornies of or acting for any such Proprietor or Proprietors, who shall be respectively infants, femmes covert, idiots, lunatics, or under any other legal disability, or who shall be beyond the seas or otherwise disabled to act for themselves, himself or herself, or of the trustees or feoffees for charitable, parochial or other uses, or of the person or persons having power to sell and dispose of such old inclosed lands, tenements or hereditaments (such consent to be testified in writing under the common seal of the body politic, corporate or collegiate, and under the hands of the other consenting parties respectively), to consider such old inclosed lands, tenements and hereditaments as allottable and part and parcel of the lands, tenements and hereditaments authorized to be allotted and inclosed by virtue of the said recited Act and of this Act, and to divide and allot the same accordingly ; and such allowance shall be made to the respective Proprietors of such old inclosed lands, tenements and hereditaments, on account of the situation or other beneficial circumstances thereof, as the said Commissioner or Commissioners shall adjudge to be just and reasonable ; and the said Commissioner or Commissioners shall set out, allot and award unto and for the respective Proprietors of such old inclosed lands, tenements and hereditaments in lieu thereof, so much and such part and parts of the lands, tenements and hereditaments to be allotted and inclosed under the said recited Act and this Act, as the said Commissioner or Commissioners shall think reasonable and just : Provided nevertheless, That no old inclosed lands, tenements and hereditaments held in right of any church, chapel or other ecclesiastical benefice shall be considered as allottable, without the consent testified as aforesaid of the Patron thereof, and of the Bishop of the Diocese in which such benefice shall be situated.

7.
Awards conclusive Evidence that the provisions of the Acts have been complied with.

And be it Enacted (subject and without prejudice to the right of appeal contained in the said recited Act), That all awards that shall be made in pursuance of the said recited Act and of this Act, or either of them, shall be conclusive evidence that the provisions of the said Acts have in all respects been complied with, and that all necessary consents have been given, and no other evidence than such Awards shall be requisite to establish the title of parties, at whose instance any inclosure shall be made under the said Acts, or either of them, and the value of their interests, or the title or interest of any lord or lords, lady or ladies of any manor or manors,

And

- And be it Enacted, That all and every the Clauses, Provisions and Enactments contained in the said recited Act, or such of them as are applicable to and consistent with the purposes and object of this Act, shall be in full force and effect for carrying into effect the Allotments,
- 5 Divisions, Inclosures and Exchanges hereby authorized to be made as fully and effectually as if such Clauses, Provisions and Enactments had been herein repeated and re-enacted, and had been made part of this Act, with such alterations and variations as would adapt them and render them applicable to the objects and purposes of this Act.
- ro And be it Enacted, That this Act may be amended, altered or re-
pealed by any Act or Acts to be passed in this present Session of Parliament.

8.
Clauses of
recited Act
applied to this
Act.

9.
Act may be
altered this
Session.

Common Fields Inclosure.

. A

B I L L

To amend an Act of the Sixth and Seventh Years of King WILLIAM the Fourth, for facilitating the Inclosure of Open and Arable Fields in *England and Wales*.

(Prepared and brought in by
Lord Worsley and Mr. Pryme.)

*Ordered, by The House of Commons, to be Printed,
9 February 1838.*

25 January 1838.—1 VICT.



(Ireland.)

A

B I L L

For the Relief of Conacre Tenants in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

- W**H **H**EREAS the practice of taking land in Conacre or for one crop, at rents greatly exceeding the average yearly rent of the best farming land, prevails extensively among the poorer classes in Ireland; and, from the uncertainty of the climate and other causes, it frequently happens that the crop produced upon such land is not worth the rent agreed to be paid, together with the seed and labour bestowed by the tenant upon its cultivation; and it is expedient to provide a remedy in such cases; **B**E it therefore **E**nacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT whensqever a Conacre Tenant shall find himself unable, from deficiency in the crop, or from other cause, to pay the rent agreed on for his Conacre Land, it shall be lawful for him, on or before the *First day of September* where the crop shall consist of Potatoes or Oats, and on or before the *First day of July* where the crop shall consist of Hay or Flax, and before reaping, pulling, cutting or digging any part of the same, to serve upon his Conacre Landlord, by handing it to himself, or in his house to his servant, wife or child above *Ten Years* of age, a Notice in writing to the following effect; (that is to say)
- Preamble.
1. Conacre Tenant unable to pay Rent for his Conacre Land, to give Notice to that effect.

“TAKE Notice, That I hereby surrender to you the crop of
[Potatoes, Oats, Hay or Flax, as the case may be,] now stand-
ing, growing or being in your field [or, farm] in the townland of
parish of barony of and
county

85.

Form of Notice.

county of _____ and that I require you in return to abandon all claim to rent due for the same. Given under my hand this *First* day of *July* [or, *September*, as the case may be], in the year One thousand eight hundred and _____."

(signed) "A. B." 5

"To C. D. at _____"

2.
The rights of
Conacre Te-
nant and
Landlord re-
spectively to
cease after
service of
Notice.

And be it Enacted, That from and after the service of such Notice as aforesaid, all right and title in the Conacre Tenant to the crop therein named, or to any part thereof, shall wholly cease and be at an end; and all right in the Conacre Landlord to the rent due for the same, or to any part thereof, shall wholly cease and be at an end; and all promissory notes and other securities previously given for the same shall thenceforward be void and of none effect. 10

3.
Conacre
Landlord not
to molest his
Conacre Te-
nant in re-
moving his
crop after ac-
cepting pro-
missory Note
for Rent.

AND whereas it has been a practice for Conacre Landlords to prevent their Conacre Tenants from making use of or carrying away the crop, although they may have given approved security for the payment of the rent, whereby such tenants have often been subjected to serious inconvenience and loss; and it is expedient to prevent a recurrence of such practice; BE it therefore Enacted, That it shall not be lawful, after the *passing of this Act*, for any Conacre Landlord or person letting land for one crop, to hinder, molest or obstruct his Conacre Tenant, or any person employed or authorized by him, in cutting, digging, pulling, saving or carrying away, at reasonable times, the crop of such land, or any part thereof, after such tenant shall have given and such landlord shall have accepted his promissory note on a legal stamp for the rent agreed on, whether the period of payment named therein shall have expired or no; and any such Landlord so hindering, molesting or obstructing his Conacre Tenant, or any person employed or authorized by him, shall be deemed guilty of a malicious injury, and shall be punishable as for a malicious injury under the provisions of Section Thirty of an Act passed in the ninth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act for consolidating and amending the Laws in Ireland relative to Malicious Injuries to Property;" and the penalty and costs that shall be awarded under the said Act shall be payable to the party aggrieved; any thing in this Act or in the above-recited Act to the contrary notwithstanding. 15 20 25 30 35

4.
Limiting
periods at
which Con-
acre Tenants
may enter
upon Con-
acre Lands.

Provided always, and be it hereby Enacted, That no Conacre Tenant shall have any right to enter upon Conacre Land without the consent of the Conacre Landlord, after the *Thirty-first* day of *October*, if the crop thereof shall have been potatoes or oats, nor after the *Thirty-first* day of *August* if the crop shall have been hay or flax; nor have any right, unless by express agreement, to any crop or part of 40

of a crop left on such land after such periods respectively, whether the rent of such Conacre Land shall have been paid or no ; but the said crop or part of a crop so left on the land after the aforesaid periods respectively, shall be deemed the property of the Conacre
 5 Landlord, unless there be an express agreement to the contrary ; and any Conacre Tenant who shall enter on such land after the aforesaid periods respectively, and shall cut, dig, pull, remove, injure or carry away any part of such crop, without the consent of the Conacre Landlord, shall be deemed guilty of a malicious injury, and
 10 shall be punishable as for a malicious injury under the provisions of the said recited Act of the ninth year of the reign of his Majesty King GEORGE the Fourth, Section Thirty ; and the penalty and costs that shall be awarded under the said Act shall be payable to the party aggrieved ; any thing in this Act or in the above-recited Act
 15 to the contrary notwithstanding.

And be it Enacted, That every Conacre Landlord may be proceeded against for damage to the crop or crops of his Conacre Tenant, committed by the cattle of such Landlord, or by cattle taken in by him to graze, in like manner as any other person may by law be pro-
 20 ceeded against for such damage.

5.
 Conacre Landlords may be proceeded against for damage done to crops of Tenant.

And be it Enacted, That every Conacre Landlord shall be bound to maintain the fences of ground let by him in Conacre, during the continuance of such letting, in like good order and condition as at the time of letting ; and in default of so doing, such Landlord shall
 25 be liable to be proceeded against by civil bill for the amount of all damage occurring to the crop or crops by reason of such default ; and any Conacre Tenant who shall break down, destroy or injure any part of the fences of land taken by him in conacre, shall be liable to be proceeded against by civil bill for the amount of all
 30 damage that shall occur to the land or crops, or other property of the landlord by reason of such injury, and also for the amount of expense incurred in repairing such fences.

6.
 Conacre Landlord to maintain Fences of Conacre Lands.

And be it Enacted, That the words "Conacre Tenant" and "Conacre Landlord" in this Act shall be held to mean persons
 35 respectively taking and letting land for one crop only, and not for a term of years, nor for a life or lives, nor for one year, nor at will.

7.
 Meaning of terms contained in this Act.

And be it Enacted, That this Act may be altered, amended, or repealed, by any Act to be passed in this present Session of
 Parliament.

8.
 Act may be altered this Session.

Conacre Tenants.

(Ireland.)

A

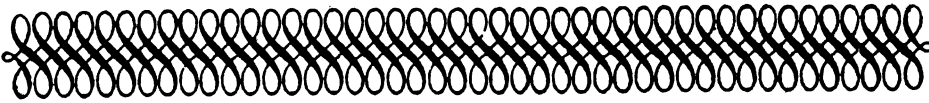
B I L L

For the Relief of Conacre Tenants in Ireland.

(Prepared and brought in by
Mr. Lucas and Mr. John Young.)

*Ordered, by The House of Commons, to be Printed,
25 January 1838.*

18 July 1838.—2 VICT.



A

B I L L

For the Payment of Constables for keeping the Peace near
Public Works.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

- W**~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ great mischiefs have arisen by the outrageous Preamble.
and unlawful behaviour of labourers and others employed on
Railroads, Canals and other Public Works, by reason whereof the
appointment of Special Constables is often necessary for keeping the
Peace, and for the protection of the Inhabitants and security of the
property in the neighbourhood of such Public Works, whereby great
expenses have been cast upon the public rates of counties and other
districts chargeable with such expenses; ~~BE it therefore Enacted~~, by
The QUEEN's most Excellent MAJESTY, by and with the Advice and
Consent of the Lords Spiritual and Temporal, and Commons, in this
present Parliament assembled, and by the Authority of the same, **THAT**
after the passing of this Act, whenever any Special Constables shall be
appointed under the authority of an Act passed in the second year of
the reign of his late Majesty, intituled, "An Act for amending the Laws
relative to the Appointment of Special Constables, and for the better
Preservation of the Peace," or under the authority of an Act passed in
the sixth year of the reign of his late Majesty, intituled, "An Act for
enlarging the Powers of Magistrates in the Appointment of Special
Constables," and it shall be made to appear to any *Two* or more
Justices of the Peace of any county, riding or division having a separate
Commission of the Peace, or of any liberty, franchise, city, town or
borough in England or Wales, on the oath of *Three* or more credible
witnesses that the appointment of such Special Constables has been
occasioned by the behaviour, or by reasonable apprehension of the
behaviour of the persons employed upon any Railroad, Canal or other
Public
- 5
10
15
20
1.
Expenses of
Special Con-
stables in
certain cases
to be paid by
the Com-
panies carry-
ing on Public
Works.
1 & 2 Will. 4,
c. 41.
5 & 6 Will. 4,
c. 43.
- 602.

Public Work made or carried on under the authority of Parliament within the district or division for which such Justices usually act, it shall be lawful for such Justices as aforesaid, at any time not exceeding *One* calendar Month next after such appointment, to make orders from time to time upon the Treasurer or other Officer who shall have the control or custody of the Funds of any Company making or carrying on such Railroad, Canal or other Public Work, for the payment of such reasonable allowances for their trouble, loss of time and expenses, to such Special Constables who shall have so served, or be then serving, as to the said Justices shall seem proper; and a copy of every such order shall be sent by the Justices to one of Her Majesty's Principal Secretaries of State, and such order, if allowed by the Secretary of State, shall be binding on such Company, and on every such Treasurer and Officer thereof: Provided always, That nothing herein contained shall empower any such Justices to order any allowance for any such Special Constables at the rate of more than *Five* Shillings daily to be paid to each Special Constable employed for the purposes aforesaid.

2.
Secretary of
State may
reduce excessive
orders.

And be it Enacted, That if it shall appear to the Secretary of State that there was no need for the appointment of such Special Constables, or that a greater number of Special Constables was appointed than was needed by reason of the behaviour, or reasonable apprehension of the behaviour, of the persons employed on such Railroad, Canal or other Public Work as aforesaid, the Secretary of State shall have power to disallow any such order, or to reduce the amount ordered to be paid by any such order, in such manner as to him shall seem just, according to the circumstances of each case; and in such case the order shall be of no force, or shall be of force for such reduced amount only, as the case may be; and the whole of such expenses, in case the whole shall be disallowed, or so much thereof as shall exceed such reduced amount, if a part shall be allowed, shall be defrayed out of the public rates of such county, riding or division, liberty, franchise, city, town or borough, as if this Act had not been made.

3.
Amount
ordered and
allowed may
be recovered
by Distress.

And be it Enacted, That in all cases where such Treasurer or other Officer as aforesaid shall refuse or neglect, during *Three Weeks* next after demand thereof, to pay such sum of money as shall have been ordered by such Justices, and allowed by the Secretary of State as aforesaid, it shall be lawful for such Justices to cause the same to be levied by distress upon the goods and chattels belonging to such Company.

4.
Act may be
amended or
repealed.

And be it Enacted, That this Act may be altered or repealed by any Act passed in this Session of Parliament.

Constables on Public Works.

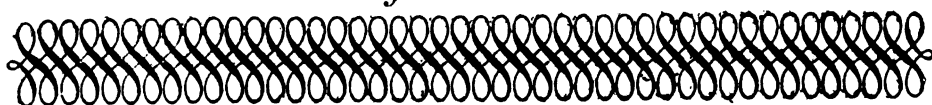
A

B I L L

For the Payment of Constables for keeping
the Peace near Public Works.

(Prepared and brought in by
Mr. Fox Maule and Lord John Russell.)

*Ordered, by The House of Commons, to be Printed,
18 July 1838.*



A

B I L L,

INTITULED,

AN ACT to remove Doubts respecting Conveyances of Estates
vested in Heirs and Devisees of Mortgagees.

WH^{EREAS} by an Act passed in the first year of the 1 W. 4. c. 60.
reign of his late Majesty King WILLIAM the Fourth,
intituled, "An Act for amending the Laws respecting Conveyances
and Transfers of Estates and Funds vested in Trustees and Mortgagees,
5 and for enabling Courts of Equity to give Effect to their Decrees and
Orders in certain Cases," it was enacted, that where any person seised
of any Land upon any Trust should be out of the jurisdiction of or
not amenable to the process of the Court of Chancery, or it should be
uncertain, where there were several Trustees, which of them was the
10 survivor, or it should be uncertain whether the Trustee last known to
have been seised as aforesaid were living or dead, or if known to be
dead it should not be known who was his Heir, or if any Trustee
seised as aforesaid, or the Heir of any such Trustee, should neglect or
refuse to convey such Land for the space of Twenty-eight Days next
15 after a proper Deed for making such Conveyance should have been
tendered for his execution by, or by an agent duly authorized by, any
person entitled to require the same, then and in every or any such
case it should be lawful for the said Court of Chancery to direct any
person whom such Court might think proper to appoint for that pur-
20 pose, in the place of the Trustee or Heir, to convey such Land to such
person and in such manner as the said Court should think proper,
and that every such Conveyance should be as effectual as if the
Trustee seised as aforesaid or his Heir had made and executed the
same; and by the same Act it was further enacted, that the several
25 provisions thereinbefore contained should extend to every case of a
constructive Trust, or Trust arising or resulting by implication of
law, but that in every such case, where the alleged Trustee had or
627. claimed

4 & 5 W. 4.
c. 23.

claimed a beneficial interest adversely to the party seeking a Convey-
ance or Transfer, no order should be made for the execution of a
Conveyance or Transfer by such alleged Trustee until after it had
been declared by the Court of Chancery, in a suit regularly instituted
in such Court, that such person was a Trustee for the person so
seeking a Conveyance or Transfer; but that the said Act should not
extend to cases upon Partition, or cases arising out of the doctrine of
Election in Equity, or to a Vendor, except in any case thereinbefore
expressly provided for: And whereas by another Act passed in the
fourth and fifth years of the reign of his said late Majesty King
WILLIAM the Fourth, intituled, "An Act for the Amendment of the
Law relative to the Escheat and Forfeiture of Real and Personal Pro-
perty holden in Trust," it was enacted, that where any person seised
of any Land upon any Trust or by way of Mortgage died without an
Heir, it should be lawful for the Court of Chancery to appoint a
person to convey such Land in like manner as was provided by the
hereinbefore in part recited Act in case such Trustee or Mortgagee
had left an Heir, and it was not known who was such Heir, and that
such Conveyance should be as effectual as if there was such Heir:
And whereas doubts have arisen whether the provisions of the said
Acts extend to the cases hereinafter mentioned; and it is expedient
that such doubts should be removed by authority of Parliament;

May it therefore please Your MAJESTY,

1.
In certain
Cases to
which it is
doubtful
whether
recited Act
extends,
Court of
Chancery to
appoint
Persons in
Place of
Devisee,
Heir, &c., to
convey Land,
&c.

That it may be Enacted and Declared; and ~~BE it Enacted and~~
~~Declared~~, by The QUEEN's most Excellent MAJESTY, by and with
the Advice and Consent of the Lords Spiritual and Temporal, and Com-
mons, in this present Parliament assembled, and by the Authority of the
same, THAT where any person seised of any Land by way of Mort-
gage shall have departed this life without having been in possession of
such land or in the receipt of the rents and profits thereof, and the
money due in respect of such mortgage shall have been or shall be
paid to his Executor or Administrator, and the Devisee or Heir or
other real Representative, or any of the Devisees or Heirs or real
Representatives of such Mortgagee, shall be out of the jurisdiction or
not amenable to the process of the Court of Chancery, or it shall be
uncertain, where there were several Devisees or Representatives who
were Joint Tenants, which of them was the survivor, or it shall be
uncertain whether any such Devisee or Heir or Representative be
living or dead, or if known to be dead it shall not be known who
was his Heir, or where such Mortgagee or any such Devisee or Heir
or Representative shall have died without an Heir, or if any such
Devisee or Heir or Representative shall neglect or refuse to convey
such Land for the space of Twenty-eight Days next after a proper
Deed for making such Conveyance shall have been tendered for his
execution

5 execution by or by an Agent duly authorized by any person entitled
to require the same, then and in every such case it shall be lawful
for the said Court of Chancery to direct any person whom such
Court may think proper to appoint for that purpose in the place of
the Devisee, Heir or Representative, (whether such Devisee, Heir
or Representative shall or shall not have a beneficial interest in the
money paid to the Executor or Administrator as aforesaid,) to con-
vey such Land in like manner as by the said first recited Act the said
Court is empowered to appoint a person to convey in the cases
10 therein mentioned in the place of a Trustee or the Heir of a Trustee,
and every such Conveyance shall be as effectual as if such Devisee or
Heir or Representative had executed the same.

And be it further Enacted, That the words used in this Act shall
have the same effect in England and in Ireland, and shall embrace
15 the same objects as they would have had and embraced if the
provision hereinbefore contained had formed part of the said recited
Acts or either of them.

Provided always, and it is hereby Enacted and Declared, That the
said recited Acts, or either of them, shall not be construed to extend
20 to any case of any person dying seised of any Land by way of
Mortgage, other than such as are hereinbefore expressly provided
for.

2.
Act to be
construed as
Part of re-
cited Act.

3.
Not to extend
to Persons
dying seised
of Land by
event of mort-
gage.

Conveyances of Estates.

A

B I L L,

INTITULED,

AN ACT to remove Doubts respecting Con-
veyances of Estates vested in Heirs and
Devises of Mortgagees.

*Ordered by The House of Commons, to be Printed,
26 July 1838.*

8 February 1838.—1 VICT.



A

B I L L

To facilitate the Enfranchisement of Lands of Copyhold and Customary Tenures.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W^hereas it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, THAT in the construction of this Act the word "Manor" shall extend to a Manor and reputed Manor, whether of Freehold or of Copyhold tenure, but in the case of a Manor of Copyhold tenure, shall mean exclusively the tenure commonly called "Copyhold of Inheritance," and "Copyhold for Lives or Years," where, according to the custom of the Manor of which such Copyhold Manor is parcel, the Copyholders have a perpetual right of renewal, or any undivided share thereof; and the word "Lands" shall extend to Manors and reputed Manors, and to messuages, lands, tenements, rents, tithes and hereditaments of any tenure whatsoever, (except the tenures respectively called "Customary Freehold" "Tenant Right," "Copyhold" and "Customary,") whether corporeal or incorporeal, or any undivided share thereof; but when accompanied by any expression including or denoting Copyhold tenure, shall extend to Manors and reputed Manors, and to messuages, lands, tenements, rents, tithes and hereditaments of that tenure, whether corporeal or incorporeal, and shall, except where otherwise expressed, mean exclusively such Manors, reputed Manors, messuages, lands, tenements, rents, tithes and hereditaments as are of the tenures commonly called, "Copyhold of Inheritance," and also such as are commonly called "Copyhold or Lives," or "for years," where, according to the custom of the Manor of which the Lands are parcel, the

125.

1.
Meaning of certain Words and Expressions.
"Manor."

"Lands."

A

Copyholders

" Estate."
" Particular Estate."

" Annual Rent."

" Apportioned
Annual Rent."

" Person."

" Number and
Gender."

Copyholders have a perpetual right of renewal, or any undivided share thereof ; and the word " Estate " shall extend to an Estate in Equity as well as at Law ; and the expression " Particular Estate " shall include every estate whatsoever, except an estate in fee-simple absolute for which any person now is or hereafter shall be seised, or possessed or entitled in his own right and for his own use and benefit, and except an Estate in fee-tail, general or special, and also except an Estate vested in any person by way of mortgage or charge, or as a trustee, or as a mere lessee or assignee of any Lease ; and except, both as to Manors and Lands (not being " Copyholds for years "), an Estate for the residue then unexpired of a term of *Ninety-nine* Years absolute, or any fewer number of years absolute vested in any person not being a mere lessee or assignee of any Lease ; and except both as to Manors or Lands, being " Copyhold for years," an Estate for the residue then unexpired of a derivative term of *Ninety-nine* Years, or any fewer number of years absolute vested in any person not being a mere lessee or assignee of any Lease, but shall include, " an Estate Tail after possibility of issue extinct ;" and the expression " Annual Rent " shall mean exclusively an Annual Rent granted in consideration of an Enfranchisement made or obtained under this Act ; and the expression " Apportioned Annual Rent " shall extend to an Annual Rent granted in consideration of an Enfranchisement made or obtained under this Act, and also to any apportioned part of such Annual Rent, and any undivided share thereof respectively ; and the word " Person " shall extend to a Body Politic, or Corporate or Collegiate, as well as an Individual ; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing ; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things ; and every word importing the masculine gender shall extend and be applied to a female as well as a male : Provided always, That those words and expressions occurring in this Clause to which more than one meaning is to be attached, shall have all or any one or more of the different meanings given to them by this Clause as the circumstances of each particular case shall require, and shall not have the different meanings given to them by this Clause in those cases in which there is any thing in the subject or context repugnant to such construction.

2.
Power, after the
31st December 1838,
to Lords of Manors
having particular
Estates to enfran-
chise Lands held by
Copy of Court Roll.

And be it Enacted, That if at any time after the *Thirty-first* day of *December One thousand eight hundred and Thirty-eight*, the person for the time being seised of in possession any manor, or entitled to the receipt of the rents, issues and profits thereof, shall be so seised or entitled for a particular Estate, then it shall be lawful for such person, whether he shall be so seised or entitled in actual possession, or in remainder or reversion expectant on the determination of any Estate

Estate vested in any person as a mere lessee or assignee of any Lease, or expectant on the determination of any Estate for a term of years not being a particular Estate or an Estate vested in any person as a mere lessee or assignee of any Lease, to enfranchise all or any of the
 5 Land helds by Copy of Court Roll and parcel of such Manor: Provided nevertheless, That it shall not be lawful for any person so seised or entitled as aforesaid, in respect of an undivided share only of any Manor, to enfranchise under this Act any Lands held by Copy of Court Roll and parcel of such Manor, unless the person for the time
 10 being enabled, either by this Act or otherwise, to enfranchise such Lands as respect the other undivided share of such Manor, shall concur in enfranchising such Lands.

And be it Enacted, That if at any time after the *Thirty-first day of December One thousand eight hundred and Thirty-eight*, the
 15 person for the time being seised of in possession any Lands held by Copy of Court Roll, or entitled to the receipt of the rents, issues and profits thereof, shall be so seised or entitled for a particular Estate, then it shall be lawful for such person, whether he shall be so seised or entitled in actual possession, or in remainder or reversion expectant
 20 on the determination of any Estate vested in any person as a mere lessee or assignee of any Lease, or expectant on the determination of any Estate for a term of years not being a particular Estate or an Estate vested in any person as a mere lessee or assignee of any Lease, to obtain the enfranchisement of all or any of such Lands: Provided
 25 nevertheless, That it shall not be lawful for any person so seised or entitled as aforesaid, in respect of an undivided share only of Lands held by Copy of Court Roll, to obtain under this Act the enfranchisement of such Lands, unless the person for the time being enabled, either by this Act or otherwise, to obtain the enfranchisement of such
 30 Lands as respects the other undivided share thereof, shall concur in obtaining the enfranchisement of such Lands.

3.
 Power, after the 31st December 1838, to Copyholders having particular Estates to obtain the Enfranchisement of Lands held by Copy of Court Roll.

And be it Enacted, That every enfranchisement made or obtained under this Act of Lands held by Copy of Court Roll shall be made or obtained for all or any of the considerations following; (that is
 35 to say) the consideration of a Grant of an Annual Rent in fee to be thenceforth charged on and issuing out of the Lands enfranchised, or some of them, or the consideration of a Conveyance of Lands held by Copy of Court Roll and parcel of the same Manor as the Lands enfranchised, and subject to the same uses and trusts as the Lands enfranchised shall be subject to at the time of such enfranchisement, or the
 40 consideration of the payment of a gross sum of Money; and the amount of such Annual Rent or gross sum of Money, or the particular Lands to be respectively charged with such Annual Rent, or conveyed, shall be fixed on by the persons respectively enfranchising and obtaining

4.
 Enfranchisements to be made in consideration of an Annual Rent, or of the Conveyance of Lands, subject to the same uses as the Lands enfranchised, or of the payment of a gross sum of Money.

the enfranchisement of such Lands ; and the consideration for every enfranchisement under this Act of Lands held by Copy of Court Roll shall be either all or such one or more of the considerations aforesaid, as the persons respectively enfranchising and obtaining the enfranchisement of such Lands shall determine.

5

5.
Power to the Person obtaining the Enfranchisement of Lands to grant an Annual Rent in consideration of such Enfranchisement.

And be it Enacted, That if the consideration for the enfranchisement under this Act of any Lands held by Copy of Court Roll shall be either wholly or in part the grant of an Annual Rent, then it shall be lawful for the person empowered by this Act to obtain the enfranchisement of such Lands, to grant such Annual Rent to the person enfranchising such Lands, and his heirs, to the uses and upon and for the trusts, intents and purposes to, upon and for which the Manor of which such Lands are parcel shall be subject and held at the time of such enfranchisement, and to charge such Annual Rent on all or such of the Lands enfranchised, as shall be fixed on, and to make the same payable by equal half-yearly payments; and the Annual Rent so granted shall be a Rent Service, and thenceforth parcel of and appendant and appurtenant to the same Manor as the Lands enfranchised.

6.
Power to the Person obtaining the Enfranchisement of Lands to convey Lands in consideration of such Enfranchisement.

And be it Enacted, That if the consideration for the enfranchisement under this Act of any Lands held by Copy of Court Roll shall be either wholly or in part the conveyance of Lands held by Copy of Court Roll, then it shall be lawful for the person empowered by this Act to obtain such enfranchisement to convey the Lands fixed on as the consideration, either wholly or in part, for such enfranchisement, to the person enfranchising the Lands proposed to be enfranchised, and his heirs, to the uses and upon and for the trusts, intents and purposes to, upon and for which the Manor of which such Lands are parcel shall be subject and held at the time of such enfranchisement.

7.
Power to the Person obtaining the Enfranchisement of Lands to charge the same with a sum of Money, in consideration of such Enfranchisement.

And be it Enacted, That if the consideration for the enfranchisement under this Act of any Lands held by Copy of Court Roll shall be either wholly or in part the payment of a gross sum of Money, then it shall be lawful for the person empowered by this Act to obtain the enfranchisement of such Lands to charge the same, or any of them, with the payment of such sum, and lawful interest for the same, to any person who shall advance and lend such sum, on the security of the Lands so to be charged, and his executors, administrators and assigns; and for securing the payment of such sum and the interest thereon, to demise the same Lands, by way of mortgage for any term of years, to the person who shall advance and lend such sum, his executors, administrators or assigns, or to such other person as he or they shall appoint, so as such demise be made with a proviso or condition

dition declaring that such demise shall be void on payment of the sum thereby secured, with the interest thereon, at a time to be therein appointed ; and any person afterwards becoming entitled to the possession or the receipt of the rents, issues and profits of such Lands shall not be liable to pay any further or larger arrear of interest than for *Six* calendar Months preceding the time when his title to the possession, or to the receipt of the rents, issues and profits of such Lands, shall have commenced.

And be it Enacted, That if at any time while an Apportioned Annual Rent shall remain charged on any Lands, the person for the time being seised in possession of such Apportioned Annual Rent, or entitled to the receipt thereof, shall be so seised or entitled for a particular Estate (whether such Estate shall have been subsisting at the time of the enfranchisement of such Lands or not), then it shall be lawful for such person, whether he shall be so seised or entitled in actual possession, or in remainder or reversion expectant on the determination of any Estate vested in any person as a mere lessee or assignee of any lease or expectant on the determination of an Estate for a term of years absolute, not being a particular Estate or an Estate vested in any person as a lessee or assignee of any lease, to divide and apportion such Apportioned Annual Rent, and to declare what part and proportion thereof shall be thenceforth severally charged upon each of the respective parcels of such Lands between which such apportionment is intended to be made; and after such apportionment, such Apportioned Annual Rent shall be chargeable upon and payable out of such Lands only, and in such parts and proportions only as shall be so declared: Provided nevertheless, That it shall not be lawful for any person so seised or entitled as aforesaid, in respect of an undivided share only of such Apportioned Annual Rent, to divide and apportion such Apportioned Annual Rent, unless the person for the time being enabled either by this Act or otherwise to divide and apportion the same as respects the other undivided share thereof, shall join in dividing and apportioning such Apportioned Annual Rent.

8.
Power to the Person having a particular Estate in an Annual Rent to apportion the same.

And be it Enacted, That if at any time while an Apportioned Annual Rent shall remain charged on any Lands, the person seised of such Lands in possession, or entitled to the receipt of the rents, issues and profits thereof, shall be so seised or entitled for a particular Estate (whether such Estate shall have been subsisting at the time of the enfranchisement of such Lands or not), then it shall be lawful for such person, whether he shall be so seised or entitled in actual possession, or in remainder or reversion expectant on the determination of any Estate vested in any person as a mere lessee or assignee of any Lease, or expectant on the determination of an Estate for a term

9.
Power to the Person having a particular Estate in Lands charged with an Annual Rent to concur in the Apportionment thereof.

of years, not being a particularly Estate or an Estate vested in any person as a mere lessee or assignee of any Lease, to concur in any division or apportionment of such Apportioned Annual Rent, and to agree what part and proportion thereof shall be thenceforth severally charged upon each of the respective parcels of such Lands between which such apportionment is intended to be made: Provided nevertheless, That it shall not be lawful for any person so seised or entitled as aforesaid, in respect of an undivided share only of such Lands, to concur in or agree to any such division or apportionment, unless the person for the time being enabled, either by this Act or otherwise, to concur in such division or apportionment, as respects the other undivided share of such Lands, shall concur in or agree to such apportionment.

10.
No Apportionment of an Annual Rent to be made without the consent of the Person entitled to the Lands charged therewith.

Provided nevertheless, and be it Enacted, That any division or apportionment shall not be made under this Act of an Apportioned Annual Rent charged on any Lands, unless with the concurrence and agreement of the person seised of such Lands, or entitled to the receipt of the rents, issues and profits thereof, for an Estate in respect of which he is enabled, either by this Act or otherwise, to concur in or agree to such apportionment, so as to render the same permanent and effectual.

11.
Power to the Person having a particular Estate in an Annual Rent to release from the same the Lands charged therewith.

And be it Enacted, That if at any time while an Apportioned Annual Rent shall remain charged on any Lands, the person seised in possession of such Apportioned Annual Rent, or entitled to the receipt thereof, shall be so seised or entitled for a particular Estate (whether such Estate shall have been subsisting at the time of the enfranchisement of such Lands or not), then it shall be lawful for such person, whether he shall be so seised or entitled in actual possession, or in remainder or reversion expectant on the determination of an Estate vested in any person as a mere lessee or assignee of any lease, or expectant on the determination of any Estate for a term of years, not being a particular Estate, or an Estate vested in any person as a lessee or assignee of any lease, to release from such Apportioned Annual Rent all or any of the Lands on which such Apportioned Annual Rent shall for the time being be charged: Provided nevertheless, That the release from any Apportioned Annual Rent of part of the Lands charged therewith shall not be deemed or taken to be a release of the whole of such Lands from such Apportioned Annual Rent.

12.
Power to Persons having particular Estates in Lands to obtain a Release of the same from an Annual Rent.

And be it Enacted, That if at any time while an Apportioned Annual Rent shall remain charged on any Lands, the person for the time being seised of such Lands in possession, or entitled to the receipt of the rents, issues and profits thereof, shall be so seised or entitled for a particular Estate (whether such Estate shall have been subsisting

subsisting at the time of the enfranchisement of such Lands or not), then it shall be lawful for such person, whether he shall be so seised or entitled in actual possession, or in remainder or reversion expectant on the determination of an Estate vested in any person as a mere lessee or assignee of any Lease, or expectant on the determination of an Estate for a term of years, not being a particular Estate, or an Estate vested in any person as a mere lessee or assignee of any Lease, to obtain, for the benefit of himself and all other persons seised or possessed of or entitled to any Estate or Interest whatsoever in the Lands on which such Apportioned Annual Rent shall for the time being be charged, a release of all or any of such Lands from such Apportioned Annual Rent : Provided nevertheless, That it shall not be lawful for any person so seised or entitled, in respect of an undivided share only of any Lands on which any Apportioned Annual Rent shall for the time being be charged, to obtain a release of such Lands, or of his undivided share thereof, from such Apportioned Annual Rent, unless the person enabled by this Act or otherwise to obtain a release of such Lands from such Apportioned Annual Rent, in respect of the other undivided share of such Lands, shall concur in obtaining such release.

And be it Enacted, That if at any time while any Lands shall remain charged with an Apportioned Annual Rent, it shall be desired to release under this Act from such Apportioned Annual Rent all or any of the Lands on which such Apportioned Annual Rent shall for the time being be charged, then the consideration for such release shall be both or one of the considerations following ; (that is to say) the consideration of a conveyance of part of the Lands on which such Apportioned Annual Rent shall for the time being be charged, or the consideration of the payment of a gross sum of Money ; and the particular Lands, and the amount of the sum of Money to be respectively conveyed and paid as a consideration for such release, shall be fixed on by the persons respectively releasing and obtaining the release from such Apportioned Annual Rent ; and the consideration for every such release shall be either both or such of the said considerations as the persons respectively releasing and obtaining the release from such Apportioned Annual Rent shall determine.

13.
Releases of Lands from Annual Rents to be made in consideration either of the Conveyance of part of the Lands charged therewith, or of a gross sum of Money.

And be it Enacted, That if it shall be proposed to release under this Act from an Apportioned Annual Rent all or any of the Lands on which such Apportioned Annual Rent shall for the time being be charged, and the consideration for such release shall be either wholly or in part the conveyance of part of the Lands on which such Apportioned Annual Rent shall for the time being be charged, then it shall be lawful for the person empowered by this Act to obtain a release from such Apportioned Annual Rent to convey the Lands fixed on as the consideration

14.
Power to the Person obtaining a Release of Lands from an Annual Rent to convey Lands in consideration of such Release.

consideration, either wholly or in part, for such release to the person making such release, and his heirs, to the uses and upon and for the trusts, intents and purposes to, upon and for which such Apportioned Annual Rent shall be subject and held at the time of such release.

15.
Power to the Person obtaining a Release of Lands from an Annual Rent to charge such Lands with a gross sum of Money.

And be it Enacted, That if it shall be proposed to release under this Act from an Apportioned Annual Rent all or any of the Lands on which such Apportioned Annual Rent shall for the time being be charged, and the consideration for such release shall be either wholly or in part the payment of a gross sum of Money, then it shall be lawful for the person empowered by this Act to obtain a release from such Apportioned Annual Rent to charge the Lands on which such apportioned Annual Rent shall for the time being be charged, or any of them, with the payment of such sum, and lawful interest for the same, to any person who shall advance or lend such sum on the security of the Lands so to be charged, and his executors, administrators and assigns; and for securing the payment of such sum, with the interest thereon, to demise by way of mortgage for any term of years the Lands so charged to the person who shall advance and lend such sum, his executors, administrators and assigns, or to such other person as he or they shall appoint, so as such demise be made with a proviso or condition declaring that such demise shall be void on payment of the sum thereby secured, with the interest thereof, at a time to be therein appointed; and any person afterwards becoming entitled to the possession, or to the receipt of the rents, issues and profits of such Lands shall not be liable to pay any further or larger arrear of interest than for *Six* calendar Months preceding the time when his title to the possession, or to the receipt of the rents, issues and profits of the Lands so demised shall have commenced.

16.
Persons may apportion and release from an Annual Rent, notwithstanding the Person enfranchising the Lands on which it is charged, or apportioning it, might have done so independently of this Act.

And be it Enacted, That every person seised of an Apportioned Annual Rent, or entitled to the receipt thereof for a particular Estate, may under this Act respectively divide and apportion and release the same, notwithstanding the person who enfranchised the Lands on which such Apportioned Annual Rent shall for the time being be charged, or the person who divided and apportioned such Apportioned Annual Rent, was at the time of such enfranchisement and apportionment respectively enabled to and actually did enfranchise such Lands, or (as the case may be) to divide and apportion such Apportioned Annual Rent, independently of this Act.

17.
Persons may concur in the Apportionment of, or obtain a Release from an Annual Rent, notwithstanding the Person obtaining the Enfranchisement, or concurring in the

And be it Enacted, That every person seised of Lands on which an Apportioned Annual Rent shall for the time being be charged, or entitled to the receipt of the rents, issues and profits thereof for a particular Estate, may under this Act concur in an apportionment of such Apportioned Annual Rent, and obtain a release from such Apportioned Annual

Annual Rent, and as a consideration either wholly or in part for such release, convey any of the Lands charged with such Apportioned Annual Rent, or charge such Lands, or any of them, with the payment of a gross sum of Money, and interest thereon, and demise the same by way of mortgage for any term of years for the purpose of securing such sum and the interest thereof, notwithstanding the person obtaining the enfranchisement of such Lands, or (as the case may be) concurring in the division or apportionment of such Apportioned Annual Rent, was at the time of such enfranchisement and apportionment respectively enabled to, and actually did obtain the enfranchisement of such Lands, and concur in the apportionment of such Apportioned Annual Rent, independently of this Act.

Apportionment of such Annual Rent, might have done so independently of this Act.

And be it Enacted, That every Apportioned Annual Rent and gross sum of Money which shall be charged on any lands under the authority of this Act shall be a first charge on such Lands, and shall have priority over all mortgages, charges and incumbrances whatsoever affecting such Lands, notwithstanding such mortgages, charges and incumbrances shall have been or shall be respectively made and created before such Apportioned Annual Rent or gross sum shall be charged on such Lands.

18.
Annual Rents and gross Sums charged on Lands under this Act to be first Charges on such Lands.

And be it Enacted, That a person shall for the purposes of this Act be considered as seised of in possession any Manor, Lands, Lands held by Copy of Court Roll, or Apportioned Annual Rent, or entitled to the receipt of the rents, issues and profits of such Manor, Lands or Lands held by Copy of Court Roll, or to the receipt of such Apportioned Annual Rent, notwithstanding he shall be so seised or entitled, either at law or in equity, subject to any mortgage, charge or incumbrance affecting such Manor, Lands, Lands held by Copy of Court Roll, or Apportioned Annual Rent, or affecting his Estate only therein, and whether such Manor, Lands, Lands held by Copy of Court Roll, or Apportioned Annual Rent, or his Estate therein, shall have been so mortgaged, charged or incumbered, either by himself or by any other person, and notwithstanding the whole of the rents, issues and profits of such Manor, Lands, or Lands held by Copy of Court Roll, or the whole of such Apportioned Annual Rent (as the case may be), or of his Estate therein respectively, shall be required for the payment of the mortgage, charge or incumbrance affecting such Manor, Lands, Lands held by Copy of Court Roll, or Apportioned Annual Rent, or his Estate therein respectively, and of the interest thereon.

19.
Persons to be considered entitled to Manors, Lands or Annual Rents, notwithstanding the same shall be charged or incumbered.

And be it Enacted, That Lands held by Copy of Court Roll which shall be enfranchised under this Act shall, from and after the enfranchisement thereof, be held of the Lord of the Manor of which

20.
Lands enfranchised shall be held of the Lord of the Manor in free and common socage, subject to

the Rents payable for such Lands at the time of their Enfranchisement.

such lands were parcel at the time of such enfranchisement in free and common socage, under and subject to such rents as shall be agreed upon at the time of such enfranchisement, but not exceeding the Rents which would have been respectively payable to and demandable by the Lord of such Manor in respect of such Lands if such enfranchisement had not been made, and such rents shall, in case such Lands shall have been enfranchised, in consideration either wholly or in part of an Annual Rent, be payable in addition to such Annual Rent, and such rents shall be rents service, and shall be parcel of and appendant or appurtenant to such Manor, and shall and may be recovered and enforced accordingly : Provided nevertheless, That the enfranchisement under this Act of Lands held by Copy of Court Roll shall not diminish or destroy any rights of common, or other rights, liberties and privileges annexed or appurtenant to such Lands, or lawfully claimed or enjoyed in respect thereof immediately previous to and at the time of the enfranchisement of such Lands, unless at the time of such enfranchisement it is expressly agreed that the same, or any of them, shall be diminished or destroyed.

21.

If the Person to make any Enfranchisement, &c. shall be an Archbishop or Bishop, then such Enfranchisement, &c. shall be made with the consent of the Dean and Chapter, &c.

Provided always, and be it Enacted, That if the person to make or obtain any enfranchisement, conveyance, grant, release or charge, or to make or concur in any apportionment under this Act, shall be and act in the capacity of an Archbishop or Bishop, then such enfranchisement, conveyance, grant, release, charge, or apportionment shall be respectively made, obtained or concurred in with the consent of the Dean and Chapter of the Cathedral Church, or the Chapter of the Cathedral Church which is locally situate within the diocese of such Archbishop or Bishop ; and the consent required by this clause shall be in addition to the consent of any other person whose consent may be requisite under any other clause contained in this Act.

22.

If the Person to make any Enfranchisement, &c. shall be a Dean and Chapter, &c., such Enfranchisement, &c. shall be made with the consent of the Bishop.

Provided always, and be it further Enacted, That if the person to make or obtain any enfranchisement, conveyance, grant, release or charge, or to make or concur in any apportionment under this Act, shall be and act in the capacity of a Dean of any Cathedral or Collegiate Church, or a Dean and Chapter of any Cathedral or Collegiate Church, or a Canon of any Cathedral or Collegiate Church, or the Prebendary of any Prebend founded in any Cathedral or Collegiate Church, or the Vicars of any Cathedral or Collegiate Church, or any other Ecclesiastical Corporation founded in any Cathedral or Collegiate Church ; then such enfranchisement, conveyance, grant, release, charge or apportionment shall be respectively made, obtained and concurred in with the consent of the Bishop of the Diocese within which such Cathedral or Collegiate Church is locally situate ; and the consent required by this clause shall be in addition to the consent of any

any other person whose consent may be requisite under any other clause contained in this Act.

5 Provided always, and be it further Enacted, That if the person to make or obtain any enfranchisement, conveyance, grant, release or charge, or to make or concur in any apportionment under this Act, shall be and act in the capacity of an Archdeacon, then such enfranchisement, conveyance, grant, release, charge or apportionment shall be respectively made, obtained and concurred in with the consent of the Bishop of the Diocese within which the jurisdiction of such
10 Archdeacon shall be confined; and the consent required by this clause shall be in addition to the consent of any other person whose consent may be requisite under any of the other clauses contained in this Act.

15 Provided always, and be it Enacted, That if the person to make or obtain any enfranchisement, conveyance, grant, release or charge, or to make or concur in any apportionment under this Act, shall be and act in the capacity of a lay Corporation founded in any Cathedral or Collegiate Church, then such enfranchisement, conveyance, grant, release, charge or apportionment shall be respectively made, obtained
20 or concurred in with the consent of the Dean and Chapter of the Cathedral or Collegiate Church, or the Chapter of the Cathedral or Collegiate Church in which such lay Corporation is founded; and the consent required by this clause shall be in addition to the consent of any other person whose consent may be requisite under any other
25 clause contained in this Act.

30 Provided always, and be it Enacted, That if the person to make or obtain any enfranchisement, conveyance, grant, release or charge, or to make or concur in any apportionment under this Act, shall be and act in the capacity of a Dean of any peculiar or exempt jurisdiction, then such enfranchisement, conveyance, grant, release, charge or apportionment shall be respectively made; obtained or concurred in with the consent of the Bishop within the limits of whose diocese the place over which the jurisdiction of such Dean shall extend is locally situate; and the consent required by this clause shall be in
35 addition to the consent of any other person whose consent may be requisite under any other clause contained in this Act.

40 Provided always, and be it Enacted, That if the person to make or obtain any enfranchisement, conveyance, grant, release or charge, or to make or concur in any apportionment under this Act, shall be and act in the capacity of a Parson, Vicar or other Incumbent for the time being of any Parochial Church or Chapelry, or Perpetual Curacy, or a Dean of any peculiar Church or Chapelry without jurisdiction,
125. then

23.

If the person to make any Enfranchisement, &c. shall be an Archdeacon, such Enfranchisement, &c. shall be made with the consent of the Bishop.

24.

If the Person to make any Enfranchisement, &c. shall be a lay Corporation founded in a Cathedral Church, such Enfranchisement, &c. shall be made with the consent of the Dean and Chapter.

25.

If the Person to make any Enfranchisement, &c. shall be a Dean of a peculiar, such Enfranchisement, &c. shall be made with the consent of the Bishop.

26.

If the Person to make any Enfranchisement, &c. shall be a Parson or Vicar, &c., then such Enfranchisement, &c. shall be made with the consent of the Patron and Ordinary.

then such enfranchisement, conveyance, grant, release, charge or apportionment shall be respectively made, obtained or concurred in with the consent of the Patron of such Parochial Church or Chapelry, or Perpetual Curacy, or peculiar Church or Chapelry, and also of the Bishop within whose diocese or within the limits of whose diocese the same is locally situate ; and the consent required by this clause shall be in addition to the consent of any other person whose consent may be requisite under any other clause contained in this Act. 5

27.
Enfranchisements of Lands, or Apportionments of or Releases from Annual Rents, shall be made with the consent of the Persons entitled to Estates for Years, Mortgages or Charges.

Provided always, and be it Enacted, That if at any time when it is proposed to make under this Act any enfranchisement of Lands held by Copy of Court Roll, or any apportionment of an Apportioned Annual Rent, or any release of an Apportioned Annual Rent, the particular Estate of the person for the time being to make such enfranchisement, apportionment or release, and in respect of which it is proposed to make the same, shall be subject to an Estate for years, being an Estate for the residue then unexpired of a term of Ninety-nine Years, or any fewer number of years absolute (but not being a mortgage for a term of years, and not being a satisfied term of years attendant on the inheritance, and not being an Estate vested in any person as a mere lessee or assignee of any lease), or shall be subject to any mortgage, charge or incumbrance, then every such enfranchisement, apportionment and release shall be made with the consent of the person for the time being beneficially entitled to such Estate for years, mortgage, charge or incumbrance, or for the time being beneficially entitled to the possession or to the receipt of the rents, issues and profits of the manor, or to the receipt of the Apportioned Annual Rent respectively comprised in such Estate for years, or to the receipt of the interest (if any) payable on such mortgage, charge or incumbrance (as the case may be), whatever may be the estate or interest of the person so entitled to such possession or receipt. 10 15 20 25 30

28.
Conveyances, Grants, Charges and Apportionments shall be made with the consent of Persons entitled to Estates for Years, Mortgages or Charges.

Provided always, and be it Enacted, That if at the time when it is proposed, in consideration of any enfranchisement under this Act, to convey any Lands held by Copy of Court Roll, or to grant any Annual Rent, or to charge the Lands enfranchised with any gross sum of Money, or if at the time when it is proposed to make any apportionment under this Act of an apportioned Annual Rent, or if at the time when it is proposed to convey any Lands, in consideration of a release under this Act, from an Apportioned Annual Rent, the particular Estate of the person for the time being to make such conveyance, grant or charge, or to concur in such apportionment, and in respect of which it is proposed respectively to make or concur in the same, shall be subject to any Estate for years, being an Estate for the residue then unexpired of a term of Ninety-nine Years, or any fewer number 35 40

number of years absolute (but not being a mortgage for a term of years, and not being a satisfied term of years attendant on the inheritance, and not being an Estate vested in any person as a mere lessee or assignee of any lease), or shall be subject to any mortgage,
 5 charge or incumbrance, then every such conveyance, grant, charge or apportionment shall be made with the consent of the person for the time being beneficially entitled to such Estate for years, mortgage, charge or incumbrance, or for the time being beneficially entitled to the possession or to the receipt of the rents, issues and profits of the
 10 lands comprised in such estate for years, or to the receipt of the interest (if any) payable on such mortgage, charge or incumbrance (as the case may be) whatever may be the estate or interest of the person so entitled to such possession or receipt.

Provided always, and be it Enacted, That if at the time when it is
 15 proposed to enfranchise under this Act any Lands held by Copy of Court Roll, or to release any Lands from an Apportioned Annual Rent, or to apportion any Apportioned Annual Rent, the Manor of which the Lands proposed to be enfranchised are parcel, or the Apportioned Annual Rent proposed to be released or apportioned
 20 shall be subject to any Lease or Sub-lease, then any such enfranchisement, release or apportionment, shall not be made without the consent of the person for the time being beneficially entitled to such Lease or Sub-lease.

29.
 Where Manors shall be held on Lease, an enfranchisement shall not be made without the consent of the Lessee.

Provided always, and be it Enacted, That if at the time when it is
 25 proposed to convey under this Act any Lands held by Copy of Court Roll, upon the enfranchisement of any Lands held by Copy of Court Roll, or to convey any Lands upon a release from an Apportioned Annual Rent, such Lands shall be held, together with the Lands proposed to be enfranchised, or with the Lands proposed to be re-
 30 leased from the Apportioned Annual Rent, or with any other Lands under any Lease at one entire pecuniary rent, and the person to make such conveyance shall, in respect of the particular Estate empowering him to make such conveyance, be entitled, either at law or in equity, to the rent reserved and made payable in such Lease, or any part
 35 thereof, then the person to make such conveyance shall concur with the person for the time being beneficially entitled under such Lease, and with the person to whom such conveyance shall be made, in dividing and apportioning the rent reserved by such Lease, and fixing and determining what part of such rent shall be thenceforth charged
 40 on and issuing out of such Lands, and the part so fixed and determined on shall be accordingly charged on and issuing out of such Lands, and the residue of such rent shall be thenceforth payable and issuing out of the other hereditaments comprised in such Lease.

30.
 Where Lands proposed to be conveyed shall be held on Lease, with other Hereditaments, at an entire Rent, the Person empowered to make such Conveyance shall concur with the Lessee and the Person to whom such Conveyance shall be made in apportioning such Rent.

31.

Where Lands proposed to be charged with an Annual Rent or a gross Sum shall be held on Lease, and the Rent payable under such Lease shall be less than the Annual Rent or the Interest on such Sum, no such charge shall be made without the consent of the Lessee.

Provided always, and be it Enacted, That if at the time when it is proposed under this Act to charge any Lands either with an Annual Rent or a gross sum of Money, the Lands proposed to be so charged shall be held on Lease, and there shall not be any rent reserved and made payable in such Lease, or the rent reserved and made payable in such Lease shall not be a pecuniary rent, or the pecuniary rent (if any) reserved and made payable in such Lease shall be less in amount than the Annual Rent or the interest on the sum proposed to be charged on such Lands, and the person to make such charge shall, in respect of the Estate empowering him to make such charge, be entitled, either at law or in equity, to the rent reserved and made payable in such Lease or any part thereof, or would have been so entitled to such rent in case any rent had been reserved and made payable in such Lease, then such charge shall not be made without the consent of the person for the time being beneficially entitled under such Lease.

32.

When Lands charged with an Annual Rent proposed to be apportioned shall be held on Lease, no such Apportionment shall be made without the consent of the Lessee.

Provided always, and be it Enacted, That if at the time when it is proposed under this Act to apportion any Apportioned Annual Rent, the Lands charged with such Apportioned Annual Rent shall be held under any Lease, and the person to concur in such apportionment shall, in respect of the particular Estate empowering him to concur therein, be entitled to the rent reserved and made payable in such Lease or any part thereof, or would have been so entitled to such rent in case any rent had been reserved or made payable in such Lease, then such apportionment shall not be made without the consent of the person for the time being beneficially entitled under such Lease.

33.

Sub-lessees not to be liable, in consequence of any Charge or Apportionment, to the payment of a greater Sum than they were before liable to.

Provided always, and be it Enacted, That a sub-lessee under any sub-lease, his executors, administrators or assigns, shall not, in consequence of any charge under this Act either with an Annual Rent or with a gross sum of Money, or in consequence of any apportionment under this Act either of an Apportioned Annual Rent, or of any rent reserved in any Lease, be liable to the payment of any greater sum of Money than he would have been subject or liable to if such charge or apportionment had not been made.

34.

Persons whose consents are requisite to an Enfranchisement, &c. under this Act, to be considered entitled to the Estate, &c. in respect of which their consent are required, notwithstanding the same shall be mortgaged, &c.

Provided always, and be it Enacted, That it shall be considered for the purposes of this Act that a person whose consent or concurrence is made requisite by this Act to any enfranchisement, release, conveyance, charge, apportionment of an Apportioned Annual Rent, or apportionment of a rent reserved by any lease, is beneficially entitled to the estate, mortgage, charge, incumbrance, lease or sub-lease in respect of which his consent or concurrence is made requisite, or beneficially entitled to the possession or receipt of the rents, issues and profits of the manor or lands, or the receipt of the Apportioned Annual

Annual Rent respectively comprised in such Estate, or to the receipt of the interest (if any) payable on such mortgage, charge or incumbrance, and that the person is, or if a rent had been reserved and made payable, would have been entitled to the rent reserved and made payable in any Lease in respect of which any consent or concurrence is by this Act made requisite, notwithstanding such Estate, mortgage, charges, incumbrance, lease or sub-lease, or the interest therein respectively of the person whose consent or concurrence is so made requisite, shall have been mortgaged, charged or incumbered, either by himself or by any other person, and notwithstanding the whole of the rents, issues and profits of such Estate, or of the manor or lands comprised in such Lease or Sub-lease, or the whole of such Apportioned Annual Rent, or the whole of the interest (if any) payable on such mortgage, charges or incumbrance, or of his interest therein respectively shall be required for the payment of the mortgage, charge or incumbrance affecting such estate, mortgage, charge, incumbrance, Lease or Sub-lease, or his interest therein respectively, or of the interest thereon, and in case any Estate, mortgage, charge, incumbrance, Lease or Sub-lease in respect of which any consent or concurrence is made requisite by this or any other provision contained in this Act, shall be subject to any mortgage, charge or incumbrance, then such consent and concurrence shall be made with the consent of the person for the time being beneficially entitled to such last-mentioned mortgage, charge or incumbrance, or for the time being beneficially entitled to the interest (if any) on such last-mentioned mortgage, charge or incumbrance, whatever may be the interest of the person so entitled as last aforesaid.

And be it Enacted, That if at the time when it is proposed to make under this Act any enfranchisement of Lands held by Copy of Court Roll, or any apportionment of an Apportioned Annual Rent, or any release from an Apportioned Annual Rent, the person empowered by this Act to enfranchise such Lands, or to apportion such Apportioned Annual Rent, or to release from such Apportioned Annual Rent, to consent or concur in any enfranchisement, apportionment or release, shall be a minor, idiot or lunatic, then the Guardian of such minor, or the Committee of the Estate of such idiot or lunatic, shall for the purposes of this Act be substituted in the place of such minor, idiot or lunatic; and all acts, deeds, matters and things which the person who shall be such minor, idiot or lunatic, might, if he had not been a minor, idiot or lunatic, have done and executed under this Act, for the purpose of enfranchising such Lands, or apportioning such Apportioned Annual Rent, or releasing from such Apportioned Annual Rent, or of consenting to or concurring in any enfranchisement, apportionment or release, shall be done and executed by the Guardian of such minor, or the Committee of such idiot or lunatic.

35.
If the Person to enfranchise any Lands, or apportion or release any Annual Rent, shall be an Infant or Lunatic, the Guardian of such Infant or Committee of such Lunatic shall be substituted in his place.

36.

If the Person to obtain an Enfranchisement of Lands, or a Release from an Annual Rent, shall be an Infant or Lunatic, the Guardian of the Infant or Committee of the Lunatic shall be substituted in his place.

Provided always, and be it Enacted, That if at the time when it is proposed to obtain under this Act the enfranchisement of any Lands held by Copy of Court Roll, or the release of any Lands from an Apportioned Annual Rent; or if at the time when it is proposed, in consideration of the enfranchisement of any Lands held by Copy of Court Roll, to make under this Act any conveyance of Lands held by Copy of Court Roll, or any grant of an Annual Rent, or any charge of a gross sum of Money; or if at the time when it is proposed, in consideration of the release from any Apportioned Annual Rent, to make under this Act a conveyance of any Lands; or if, at the time when it is proposed to apportion any Apportioned Annual Rent, or any Rent reserved by any Lease, the person empowered by this Act to obtain such enfranchisement or release, or to make, consent or concur in such conveyance, grant or charge, or to concur in, or consent to such apportionment, shall be a minor, idiot or lunatic; then the Guardian of such minor, or the Committee of the Estate of such idiot or lunatic, shall for the purposes of this Act be substituted in the place of such minor, idiot or lunatic; and all acts, deeds, matters and things which the person who shall be such minor, idiot or lunatic might, if he had not been a minor, idiot or lunatic, have done and executed under this Act for the purpose of obtaining such enfranchisement or release, or of making, consenting to, or concurring in such conveyance, grant or charge, or of concurring in, or consenting to such apportionment, shall be made and executed by the Guardian of such minor, or the Committee of such idiot or lunatic.

37.

Gross sums of Money to be paid for the Enfranchisement of Lands and the Release from an Annual Rent shall, except in the case of an Ecclesiastical Corporation, be paid to Trustees to be appointed by Two Barristers of Seven Years' standing, &c.

And be it Enacted, That if the consideration for any enfranchisement under this Act, or for any release under this Act from an Apportioned Annual Rent, shall be, either wholly or in part, the payment of a gross sum of Money, and the person to make such enfranchisement or release shall make the same under the authority of this Act, but shall not be an Ecclesiastical Corporation, then the sum to be paid, either wholly or in part, as the consideration for such enfranchisement or release, shall be paid to *Three* or more Trustees, to be nominated and appointed by *Two* Barristers-at-Law, each of whom shall be of at least *Seven Years'* standing at the Bar, one of which Barristers shall be appointed by the person making such enfranchisement or release, and the other of which Barristers shall be appointed by the person obtaining such enfranchisement or release, and a recital in the Assurance whereby such enfranchisement or release shall be made, that the Barristers therein named have been so appointed, shall be conclusive evidence of that fact, and the nomination of the Trustees by such Barristers shall be testified by such Barristers being parties to and sealing and delivering such Assurance; and when and so often as, in consequence of any of the Trustees so to be appointed as aforesaid, or to be appointed as hereinafter directed, dying or declining

ing to act in the said trusts hereby in them reposed, there shall not be at least *Two* persons who shall be Trustees willing and capable to act in the said trusts, then and in every such case, and immediately thereupon, the surviving or continuing Trustees, or the last surviving
 5 or continuing Trustee, or the executors or administrators of the last surviving or continuing Trustee, shall and they and he are and is hereby required to appoint any person or persons to be a new Trustee or new Trustees to act in the said trusts, but so nevertheless that there shall at all times be at least *Two* Trustees to act in the said
 10 trusts; and upon every such appointment of new Trustees, or of a new Trustee, the sum, lands, stocks, funds and securities which shall be then vested in the Trustee or Trustees so dying or declining to act as aforesaid, either solely or jointly with any other Trustee or Trustees, shall with all convenient speed be paid, conveyed, assigned and
 15 transferred, so as to be vested in such new Trustee or Trustees, either solely or jointly with the surviving or continuing Trustee or Trustees, as occasion shall require.

And be it Enacted, That if the consideration for any enfranchisement under this Act, or for any release under this Act from an
 20 Apportioned Annual Rent, shall be, either wholly or in part, the payment of a gross sum of Money, and the person to make such enfranchisement or release shall be an Ecclesiastical Corporation either aggregate or sole, then the sum to be paid, either wholly or in part, as the consideration for such enfranchisement or release, shall be paid
 25 to the Governors authorized or appointed to regulate and superintend the Bounty given by her late Majesty Queen ANNE, for the augmentation of the maintenance of the poor Clergy.

And be it Enacted, That the receipts of the persons to whom any gross sum of Money shall be paid pursuant to this Act shall
 30 be sufficient discharges for the same, and the person paying such gross sum of Money shall not be liable to see to the application of such sum, or be liable for the misapplication or non-application thereof.

And be it Enacted, That every gross sum of Money paid pursuant to this Act, in consideration, either wholly or in part, for the
 35 enfranchisement of any Lands held by Copy of Court Roll, or for the release from any Apportioned Annual Rent, shall be applied in or towards the payment or discharge of any mortgage, charge, lien or incumbrance which shall affect the Manor of which the Lands
 40 enfranchised shall be parcel, or any Lands, or Lands held by Copy of Court Roll which shall be subject to the same uses as such Manor, or, as the case may be, which shall affect the Apportioned Annual Rent released, or any Lands, or Lands held by Copy of Court Roll which
 125. c shall

38.
 Gross Sums to be paid for the Enfranchisement of Lands, or the Release of an Annual Rent, shall, in the case of an Ecclesiastical Corporation, be paid to the Governors of Queen Anne's Bounty.

39.
 The Receipts of the Persons to whom any gross Sums shall be paid pursuant to this Act shall be sufficient discharges, &c.

40.
 Persons to whom gross Sums shall be paid pursuant to this Act, shall apply the same in paying off charges affecting the Manor or Annual Rent, or in the purchase of other Estates, to be settled to the same uses, or in the redemption of the Land-tax, and in the mean time invest the same in Government or real Securities.

shall be subject to the same uses as such Apportioned Annual Rent, or shall be invested in the purchase of Lands of an indefeasible estate of inheritance in fee-simple in possession, or subject only to any lease at rack-rent; and the Lands so to be purchased shall be conveyed to, for and upon such and the like uses, trusts, intents and purposes as such Manor, or, as the case may be, such Apportioned Annual Rent shall be subject at the time of making such conveyance; or in case of a sum of Money paid either wholly or in part for the enfranchisement of Land held by Copy of Court Roll shall be applied in or towards the purchase or redemption of the Land-tax payable in respect of the Manor of which the Lands enfranchised shall be parcel, or of any Lands, or Lands held by Copy of Court Roll which shall be subject to the same uses as such Manor; and every gross sum of Money paid pursuant to this Act, in consideration, either wholly or in part, for the enfranchisement of any Lands held by Copy of Court Roll, or for the release from any Apportioned Annual Rent, shall in the mean time, and until the same shall be applied or invested in such payments or purchases as aforesaid, be invested in the Three per Centum Consolidated or Three per Centum Reduced Bank Annuities, or in Government or real securities in England or Wales; and the dividends or interest arising therefrom shall be paid to the person who would for the time being have been entitled to the rents and profits of the Lands so to be purchased and conveyed, in case the same had been then actually purchased and conveyed.

41.
A Person may Enfranchise under this Act, notwithstanding the Person obtaining it may do so independently of this Act.

And be it Enacted, That it shall be lawful for any person, under the powers and authorities of this Act, to make any enfranchisement, release or apportionment, notwithstanding the person obtaining such enfranchisement or release, or concurring in such apportionment, may be enabled respectively to obtain and concur in the same, and may actually obtain and concur in the same, independently of this Act; and that it shall be lawful for any person, under the powers and authorities of this Act, to obtain any enfranchisement or release, or concur in any apportionment, notwithstanding the person making such enfranchisement, release or apportionment, may be entitled to make and may actually make the same independently of this Act.

42.
A Person may enfranchise under this Act, although enabled to do so independently of this Act.

And be it Enacted, That any person for the time being entitled, independently of this Act, to make and obtain an enfranchisement of Lands held by Copy of Court Roll for all or any of the considerations for which an enfranchisement may be made or obtained under this Act, shall and may, if he shall think fit, make or obtain, under the powers and authorities of this Act, an enfranchisement of any Lands held by Copy of Court Roll of which he shall be so enabled to make or obtain an enfranchisement independently of this Act, so nevertheless that the same be made or obtained for the consideration

tion for which he shall be enabled to make or obtain such enfranchisement independently of this Act; and every enfranchisement made or obtained by any person so enabled as aforesaid, who shall profess to make or obtain the same under the powers and authorities of this Act, shall be deemed and taken for all purposes whatsoever to be an enfranchisement made or obtained under the powers and authorities of this Act; and all the provisions of this Act shall apply to an enfranchisement so made and obtained, and to the person making or obtaining the same.

- 10 Provided always, and be it Enacted, That the powers, authorities and provisions hereinbefore contained shall not be deemed or taken to prejudice or affect any power contained in any Settlement, Deed or Will, either already executed or at any time hereafter to be executed.

43.
The previous provisions in this Act not to affect powers of appointment.

- 15 And be it Enacted, That every enfranchisement, release, conveyance, grant, charge, demise and apportionment which shall be made under this Act, shall be effected by some one of the assurances (not being a will) by which such enfranchisement, release, conveyance, grant, charge, demise and apportionment could be made,
20 if in the case of an enfranchisement, release or apportionment, the person making the same was seised in possession for an Estate at law in fee-simple absolute of the Manor or Apportioned Annual Rent to be respectively affected by such enfranchisement, release and apportionment; and if, in the case of a conveyance, grant, charge or demise,
25 the person making the same was seised in possession for an Estate at law in fee-simple absolute of the Lands held by Copy of Court Roll, or Lands to be respectively affected by such conveyance, grant, charge or demise; and if the person to make such assurance shall be the husband of a feme covert, then such feme covert shall concur in such
30 assurance; and every assurance by which a feme covert shall so concur, shall be acknowledged by her pursuant to an Act passed in the third and fourth years of the reign of his late Majesty, intituled, "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance;" and if any Manor,
35 Lands, Lands held by Copy of Court Roll, or Apportioned Annual Rent shall be settled to the separate use of a feme covert, such assurance shall be made by her as if she were a feme sole; and every assurance by which any enfranchisement, conveyance, grant or demise shall be made shall take effect by transmutation of possession; and every
40 assurance by which any enfranchisement, conveyance or grant shall be made, shall pass a sufficient seisin at law to serve the uses, trusts, intents and purposes to, upon and for which such assurance is to be made, according to the provisions of this Act; and every conveyance and grant under this Act, in consideration of the enfranchisement of

44.
Every Enfranchisement, &c. under this Act to be made by the same Assurance as if the Person making the same had been seised in fee at law, and such Assurance shall operate by transmutation of possession, and pass as Estate in fee-simple at law.

Lands held by Copy of Court Roll, shall be made by the same assurance by which such Lands shall be enfranchised; and every conveyance under this Act, in consideration of the release of an Apportioned Annual Rent, shall be made by the same assurance by which such Apportioned Annual Rent shall be released; and every assurance by which any such enfranchisement, release, conveyance, grant, charge, demise or apportionment shall be made under this Act, shall be sealed and delivered by the person making the same in the presence of and shall be attested by *Two* or more Witnesses. 5

45.
Where the concurrence of any Person is required to any Enfranchisement, &c. the same shall be given by the same Assurance by which the Enfranchisement, &c. shall be made.

And be it Enacted, That where the concurrence or consent of any person shall be requisite under this Act to any enfranchisement, release, conveyance, grant, charge, demise or apportionment, such concurrence or consent shall be given by the assurance by which the enfranchisement, release, conveyance, grant, charge, demise or apportionment shall be made; and the person whose concurrence or consent shall be requisite, shall seal and deliver such assurance in the presence of *Two* or more witnesses, who shall attest such sealing and delivery. 10 15

46.
Lands conveyed and Annual Rents granted on Enfranchisement shall be subject to such Settlements, Wills, &c. and no other, as shall affect the Manor.

Provided always, and be it Enacted, That all Lands held by Copy of Court Roll which shall be conveyed, and all Annual Rents which shall be granted as the consideration, either wholly or in part, for the enfranchisement under this Act of Lands held by Copy of Court Roll, shall, from and immediately after such conveyance or grant, be discharged from all settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, which at the time of such conveyance or grant shall affect the Lands conveyed or charged with such Annual Rent; and shall be thenceforth subject to all such settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, and no other, as shall affect the Manors of which the Lands enfranchised were respectively parcel. 20 25 30

47.
Lands conveyed in consideration of the Release of an Annual Rent shall be subject to such Settlements, Wills, Deeds, &c., and no other, as shall affect such Annual Rent.

Provided always, and be it Enacted, That all Lands which shall be conveyed under this Act as the consideration, either wholly or in part, for the release of an Apportioned Annual Rent, shall, from and immediately after such conveyance, be thenceforth discharged from all settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests and incumbrances, claims and demands, which shall affect such Lands at the time of such conveyance, and shall thenceforth be subject and liable to all such settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, and no other, as shall affect the Apportioned Annual Rent so released. 35 40

Provided

Provided always, and be it Enacted, That all Lands held by Copy of Court Roll, and enfranchised under this Act, shall, from and immediately after such enfranchisement, be discharged from all settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, which shall affect the Manor of which such Lands shall be parcel at the time of such enfranchisement, and shall thenceforth be subject and liable to all such settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, and no other, as shall affect such Lands (not being heriots, customary or copyhold payments, duties, services or customs); and any devise of Lands held by Copy of Court Roll enfranchised under this Act, and which shall be contained in any will made prior to such enfranchisement by persons living at the time of such enfranchisement, shall not be revoked by the enfranchisement of such Lands.

48.
Lands enfranchised shall be subject to such Settlements, Wills, &c., and no other, as shall affect such Lands at the time of the Enfranchisement.

Provided always, and be it Enacted, That all Lands which shall be released under this Act from an Apportioned Annual Rent, shall from and after such release be discharged from all settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, which shall affect such Apportioned Annual Rent at the time of such release, and shall thenceforth be subject to such settlements, wills, mortgages, deeds and other instruments, estates, rights, titles, interests, incumbrances, claims and demands, and no other, as shall affect such lands.

49.
Lands which shall be released from an Annual Rent shall be subject to such Settlements, Wills, &c., and no other, as shall affect such Lands at the time of the Release.

Provided always, and be it Enacted, That every assurance by which an enfranchisement, grant, conveyance, release, charge, demise or apportionment shall be made under this Act, shall be valid and binding on all persons whomsoever having or claiming any estate, right, title, interest, charge, lien, incumbrance, claim or demand whatsoever in, to, out of or upon the Manor of which the Lands enfranchised were parcel at the time of such enfranchisement, or in, to, out of, or upon the Lands, or Lands held by Copy of Court Roll, and Apportioned Annual Rent respectively enfranchised, granted, conveyed, released, charged, demised and apportioned, or who might or would have had and claimed any estate, right, title, interest, charge, lien, incumbrance, claim and demand whatsoever in, to, out of or upon such Manor, Lands, Lands held by Copy of Court Roll, and Apportioned Annual Rent respectively, if such assurance had not been made, and that—notwithstanding any defect in the title of the persons respectively making and executing such assurance, or concurring in or consenting to the same; and the recital of any deed, will or other document which shall be recited in any assurance by which an enfranchisement, grant, conveyance, release, charge, demise or apportionment shall be made under this Act, shall, in case the

50.
Assurances to be binding on all Persons having claims on the Manors, Lands or Annual Rents comprised in such Assurances, and Recitals therein to be conclusive evidence.

Barristers made parties to such assurance pursuant to this Act shall certify in such assurance that such recital is correct, be for all purposes whatsoever deemed conclusive evidence of the contents of such deed, will or other document; and it shall not be necessary to produce in any court of law or equity, or otherwise, any deed, will or other document in verification of any such recital; but nevertheless it shall be competent for a Court of Equity to set aside any such assurance on the ground of fraud. 5

51.
If, at the time of the conveyance of any Lands in consideration of an Enfranchisement, there shall be a Lease subsisting, the Person to whom such Lands shall be conveyed shall have the reversion on such Lease, and may distrain for the Rents and enforce the Covenants, &c.

Provided always, and be it Enacted, That if at the time of the conveyance under this Act of any Lands held by Copy of Court Roll, in consideration either wholly or in part of the enfranchisement of any Lands held by Copy of Court Roll, there shall be subsisting in the Lands so conveyed any lease (not being an under-lease), then the lessee under such lease, his executors, administrators and assigns, shall pay, observe and keep to and with the person to whom such Lands shall be so conveyed, or other the person for the time being seised of or entitled to such Lands expectant on the determination of such lease, and his executors or administrators, the rent, reservations, covenants, conditions and agreements respectively reserved and contained in such lease, or such and so many or such part of the rent, reservations, covenants, conditions and agreements respectively reserved and contained in such lease, as are or ought to be thenceforth respectively paid, observed and kept in respect of the Lands so conveyed; and the person to whom such Lands shall be so conveyed, or other the person so for the time being seised of or entitled as aforesaid, shall and may from time to time make or bring all such distresses, actions, suits or entries for non-payment of such rent or reservations, or for non-performance of the covenants, conditions and agreements in such lease respectively reserved and contained, as could, in case such enfranchisement and conveyance had not been made, have been made or brought by the person making such conveyance, or other the person for the time being seised of or entitled to the reversion expectant on the determination of such lease; and that in all such distresses, actions, suits and entries, the rent, reservations, covenants, conditions and agreements in such lease reserved and contained on the part of the lessee, his executors, administrators or assigns, shall be deemed and taken to be annexed to an immediate reversion vested in the person to whom such Lands shall be so conveyed, or other the person for the time being so seised of or entitled to such Lands as aforesaid. 15 20 25 30 35 40

52.
If, at the time of the Enfranchisement of any Lands, there shall be any Lease subsisting therein, the Freeholder shall

Provided always, and be it Enacted, That if, at the time of the enfranchisement under this Act of any Lands held by Copy of Court Roll, there shall be subsisting in such Lands any lease (not being an under-lease),

under-lease), then the lessee under such lease, his executors, administrators and assigns, shall pay, observe and keep to and with the person for the time being seised of or entitled to the Lands so enfranchised, and his executors or administrators, the rent, reservations, covenants, conditions and agreements respectively reserved and contained in such lease, or such and so many or such part of the rent, reservations, covenants, conditions and agreements respectively reserved and contained in such lease, as are or ought to be thenceforth respectively paid, observed and kept, in respect of the Lands so enfranchised ; and the person for the time being seised of or or entitled to the Lands so enfranchised shall and may from time to time make or bring all such distresses, actions, suits or entries for non-payment of such rent or reservations, or for non-performance of the covenants, conditions and agreements in such lease respectively reserved and contained, as could have been made or brought by the person who would for the time being have been entitled to the Lands so enfranchised, in case such enfranchisement had not been made ; and in all such distresses, actions, suits and entries, the rents or reservations, covenants, conditions and agreements in such lease reserved and contained on the part of the lessee, his executors, administrators or assigns, shall be deemed and taken to be annexed to an immediate reversion vested in the person for the time being seised of or entitled to the Lands so enfranchised.

have the reversion on that Lease, and may distrain for the Rents and enforce the Covenants, &c.

And be it Enacted, That after the *Thirty-first day of December One thousand eight hundred and Thirty-eight*, it shall not be lawful for any person seised of or entitled to any Manor for any Estate or interest whatsoever to make any voluntary Grant of Lands to be held by Copy of Court Roll, whether such Lands shall on the *Thirty-first day of December One thousand eight hundred and Thirty-eight* be held by Copy of Court Roll or not ; and as to the Lands held by Copy of Court Roll, whether the same shall be " Copyhold of Inheritance," or " Copyhold for lives," or " Copyhold for years," and as to " Copyhold for lives," and " Copyhold for years," whether according to the custom of the Manor of which the Lands are parcel, the Copyholders have or have not a perpetual right of renewal.

53.
After the 31st of December 1838, no voluntary Grants shall be made of Lands to be held by Copy of Court Roll.

And be it Enacted, That when and so often as, after the *Thirty-first day of December One thousand eight hundred and Thirty-eight*, any Lands held by Copy of Court Roll, being " Copyhold for lives," or " for years," where there shall not, according to the custom of the Manor of which such Lands are parcel, the Copyholders have not a perpetual right of renewal, shall become vested in the person seised of or entitled to such Manor, freed and discharged from all claims and demands whatsoever by any person to have

54.
When and as, after the 31st December 1838, Lands held by Copy of Court Roll for Lives or Years, where there shall not be a perpetual Tenant right of renewal, shall become vested in the Person entitled to the Manor, and such Person shall be so

entitled as Lessee or for a particular Estate, such Person may demise such Lands for the same Estate, &c. for which the Lands could have been granted out as Copyhold, if this Act had not passed.

such Lands re-granted out to be held by Copy of Court Roll, then in case the person in whom such Lands shall become vested shall be seised of such Manor in possession, or entitled to the receipt of the rents, issues and profits thereof, as the lessee or assignee of any Lease, or for any particular Estate, it shall be lawful for such person 5 to demise or lease such Lands for the same Estate or Estates, and either in possession or in reversion, as such Lands could, according to the custom of such Manor, have been granted out to hold by Copy of Court Roll in case this Act had not been passed; but nevertheless at, under and subject to such rents, and payments, except heriots, as 10 the person making such demise shall think fit, not being less than the rents, and payments which would from the time of making such demise have become payable in respect of such Lands in case the same had, at the time of making such demise, been granted 15 out to hold by Copy of Court Roll, instead of being so demised or leased: Provided nevertheless, That the widow of any person dying possessed of or entitled to any Lands comprised in any such demise shall not, by virtue of such demise or Lease, be entitled to such Lands during her widowhood, notwithstanding, according to the custom of the Manor of which such Lands shall be parcel, 20 she would have been entitled to such Lands during her widowhood, in case the same had been held by Copy of Court Roll: Provided also, nevertheless, That nothing herein contained shall be taken to authorize any person to make any demise or lease under this present clause, unless he shall be an Ecclesiastical Corpora- 25 tion, or (not being an Ecclesiastical Corporation) shall be seised, possessed or entitled for a particular Estate under a settlement, deed or other instrument not being a will, made or executed already, or on or before the said *Thirty-first day of December One thousand eight hundred and Thirty-eight*, or under the will of any person who has died 30 before the *passing of this Act*, or shall hereafter die on or before the said *Thirty-first day of December One thousand eight hundred and Thirty-eight*, or unless he, or the person under whom he claims, shall be the lessee or assignee of any Lease already, or on or before the said *Thirty-first day of December One thousand eight hundred and Thirty-* 35 *eight*, granted by any person whomsoever, or shall be the lessee or assignee of any Lease at any time after the said *Thirty-first day of December One thousand eight hundred and Thirty-eight*, granted by any Ecclesiastical Corporation, or granted by any person (not being an Ecclesiastical Corporation) already, or at any time hereafter, seised, 40 possessed or entitled to a particular Estate under a settlement, deed, or other instrument made or executed already, or on or before the said *Thirty-first day of December One thousand eight hundred and Thirty-eight*, or under the will of any person who shall have died before the *passing of this Act*, or shall hereafter die on or before the said

said *Thirty-first day of December One thousand eight hundred and Thirty-eight.*

And be it Enacted, That all the powers and authorities given by this Act for the purpose of making or obtaining any enfranchisement or release, and of making any conveyance, grant, charge or demise, or of making or concurring in any apportionment, or of consenting to any enfranchisement, conveyance, grant, release, charge or apportionment, and all acts, deeds, matters and things empowered by this Act to be done and executed for effecting any of the said purposes respectively, shall and may be exercised and done by the Masters, or other Heads and Fellows and Scholars, or other Societies of the several Colleges and Halls in the Universities of Oxford and Cambridge, and of the Colleges of Eton and Winchester, and by the Masters and Brethren, or other Governors and Directors of Hospitals, and by the Trustee or Trustees for any such College, Hall or Hospital as aforesaid, and by the Feoffees or Trustees for any charitable, eleemosynary or other public purposes whatsoever, and by Trustees for the sale of Lands, or Lands held by Copy of Court Roll, and by persons authorized or directed by any Court of Equity to sell Lands, or Lands held by Copy of Court Roll; and all the provisions of this Act in any way relating to any of the purposes aforesaid shall to all intents, constructions and purposes, apply to such Masters or other Heads and Fellows and Scholars, or other Societies, Masters and Brethren, or other Governors and Directors, Feoffees, Trustees and persons respectively; and such Masters or other Heads and Fellows and Scholars, or other Societies, Masters and Brethren, or other Governors and Directors, Feoffees, Trustees and persons respectively, shall be the only persons in respect of Manors, Lands, or Lands held by Copy of Court Roll, vested in them in those respective capacities to make or obtain any enfranchisement or release, and to make any conveyance, grant, charge or demise, or to make or concur in any apportionment, or to consent to any enfranchisement, conveyance, grant, release, charge or apportionment under the powers and authorities contained in this Act.

55.
Powers of this Act extended to Trustees for Colleges and for charitable and other public purposes, and also to Trustees and other Persons empowered to sell.

And be it further Enacted, That all the provisions in this Act contained, which apply or refer to Manors or Lands of copyhold tenure, shall apply and refer to Manors and Lands of the tenures respectively called Customary Freehold and Tenant Right, where the freehold of them is in the Lord of the Manor of which they are parcel, and also to the Manors and Lands of the tenure called Customary.

56.
The provisions of the Act applicable to Copyholds to apply to Customary Freeholds.

Copyholds Enfranchisement.

A

B I L L

To facilitate the Enfranchisement of Lands
of Copyhold and Customary Tenures.

(Prepared and brought in by
Mr. Attorney General and Mr. Solicitor General.)

Ordered, by The House of Commons, to be Printed,
8 February 1838.

125.



A

B I L L

For the Amendment of the Law relating to Lands held by Copy of Court Roll.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in the construction of
5 this Act the word "Manor" shall extend to a Manor of any tenure whatsoever, and shall also include a Manor by reputation; and the word "Lands" shall extend to Manors, and reputed Manors, and to Messuages, Lands, Tenements, Tithes and Hereditaments, whether corporeal or incorporeal, or any undivided share thereof; and the
10 words "Lord," "Steward" and "Deputy of such Steward" shall include the Persons for the time being filling those respective characters, or acting in those respective capacities, whether those Persons shall be rightfully or lawfully entitled to fill those characters or act in those capacities or not, and whether the Person for the
15 time being acting as such Lord, or in whose name any Customary Court may be held for any Manor, shall or shall not have any estate or interest in such Manor, either at law or in equity; and the expressions and words, "Tenant in tail," "Protector of a Settlement," and "Settlement" in this Act, shall have the same respec-
20 tive meanings as are given to those respective expressions and words in an Act passed in the third and fourth years of the reign of his late Majesty, intituled, "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance;" and the word "Person" shall extend to a Body Politic, Corporate or Collegiate, as well as an individual; and every word

1.
Meaning of
certain Words
and Express-
ions.
"Manor."
"Lands."

"Lord."
"Steward."
"Deputy
Steward."

"Person."

Number. importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and Gender. every word importing the masculine gender shall extend and be applied to a female as well as a male : Provided always, That the words occurring in this clause to which more than one meaning is to be attached, shall have all or any one or more of the different meanings to be attached to them by this clause, as the circumstances of each particular case shall require, and shall not have the different meanings to be attached to them by this clause, in those cases in which there is any thing in the subject or context repugnant to such construction.

2.
Power after
the 31st De-
cember 1838
to Lords of
Manors or
their Stewards
to hold
Customary
Courts,
although no
Copyhold
Tenant be
present.

And be it Enacted, That after the *Thirty-first day of December One thousand eight hundred and Thirty-eight* it shall be lawful for the lord of any manor, or his steward, or the deputy of such steward, to hold either a general or a special Customary Court for such Manor, notwithstanding at the time of holding the same there shall not be any person who shall hold Lands of such Manor by Copy of Court Roll, and also notwithstanding, if there shall at the time of holding such Court be any person or persons who shall hold Lands of such Manor by Copy of Court Roll, there shall not be any such person present at such Court, or there shall be only one such person present at such Court; and every Court so holden shall be deemed and taken for all purposes whatsoever to be a good and sufficient Customary Court; and it shall be lawful for the lord, steward or deputy to do and transact, and cause to be done and transacted, at a Court so held, and to order or direct at a Court so held, that all such acts, deeds, matters and things shall be done and transacted after the holding of such Court, and to make on the Court Rolls of such Manor all such entries of the proceedings at such Court, and of occurrences and proceedings since the last preceding General Court for such Manor, as might respectively have been done and transacted at such Court, and might have been ordered and directed at such Court to be done and transacted, and have been entered on the Court Rolls of such Manor, in case a homage had been duly assembled at such Court, and had made all such presentments as would have been necessary for a homage to make, if assembled at such Court; and the validity of any act, deed, matter or thing done at any Customary Court so holden, or done in consequence of an order or direction at any Customary Court so holden, shall not be disputed for the want of a presentment by a homage assembled at such Customary Court; and it shall not be essential to the validity of any seizure by or on the behalf of the lord of any manor, that the forfeiture or other act for which such seizure shall have been made had been duly presented at a Customary Court holden for such manor.

And

3.
After the 31st
December
1838 Surren-
ders of Lands
held by Copy
of Court Roll
shall be made
by instru-
ments in
writing, signed
by the person
making the
Surrender.

And be it Enacted, That after the *Thirty-first day of December*
One thousand eight hundred and Thirty-eight, every surrender of
lands held by Copy of Court Roll, whether made in or out of Court,
shall be made by an instrument in writing, signed by the person
5 making such surrender, and such person shall and may thereby
surrender any lands held by him by Copy of Court Roll into the
hands of the lord of the manor of which such lands are parcel, to
any uses and upon and for any trusts, intents and purposes to, upon
and for which such person shall for the time being be entitled to
10 surrender such lands; and it shall not be competent for any person,
after the said *Thirty-first day of December One thousand eight hundred*
and Thirty-eight, to surrender, either in or out of Court, any lands
held by Copy of Court Roll, except by an instrument so signed as
aforesaid; and the person making the surrender by such instrument
15 may sign the same, either within or out of such manor, and either
in the presence or in the absence of the lord of such manor or his
steward, or the deputy of such steward; and in every case in which
any instrument by which a husband and wife shall make any sur-
render of lands held by Copy of Court Roll shall be signed by such
20 wife in the presence of the lord of the manor of which such lands
are parcel, or his steward or the deputy of such steward, such wife
shall be examined separately and apart from her husband by the
lord or steward or deputy in whose presence such instrument shall
be so signed, touching her free and voluntary consent to the sur-
25 render intended to be made by such instrument; and every instru-
ment by which a husband and wife shall make any surrender of
lands held by Copy of Court Roll, and which shall not be signed by
such wife in the presence of the lord of the manor of which such
lands are parcel, or of his steward or the deputy of such steward,
30 shall be acknowledged by her, pursuant to an Act passed in the
third and fourth years of the reign of his late Majesty, intituled,
“ An Act for ‘the Abolition of Fines and Recoveries, and for the
Substitution for more simple Modes of Assurance;” and every
surrender made by a wife by any instrument so acknowledged shall
35 be a valid surrender, and be binding on such wife and on all persons
claiming under her, notwithstanding she shall not have been ex-
amined separately and apart from her husband by the lord of such
manor, or his steward or the deputy of such steward; and every in-
strument by which any surrender of Lands held by Copy of Court
40 Roll shall be made by virtue of this Act, shall, if signed in the
presence of the lord of such manor, or his steward or the deputy
of such steward, be left with the lord, steward or deputy in whose
presence the same shall be so signed, for the purpose of being
entered on the Court Rolls of the manor as hereinafter directed,
45 and such instrument, if not signed in the presence of the lord of
such manor, or his steward or the deputy of such steward, shall,
after the signing thereof, be delivered at a Court holden for such
manor, or out of Court, and either within or out of such manor, to

the lord of such manor, or his steward or the deputy of such steward, for the purpose of being entered on the Court Rolls of the manor as hereinafter directed ; and the signing of any such instrument in the presence of, or the leaving or delivery of any such instrument with or to the Bailiff or Reeve or Headborough of such manor, and any person or persons holding lands of such manor by Copy of Court Roll, or any or either of them, such Bailiff, Reeve, Headborough, or other person or persons, shall not have any operation or effect whatsoever, notwithstanding that by any custom or customs of such manor such Bailiff or Reeve or Headborough, and other person or persons, or any or either of them, such Bailiff, Reeve, Headborough or other person or persons, might before the *passing of this Act* take surrenders of lands held of such manor by Copy of Court Roll ; and the lord, steward or deputy in whose presence any such instrument shall be so signed, or to whom it shall be so delivered, shall forthwith on the signing thereof or the delivery thereof to him give an acknowledgment of such signing and delivery signed by him to the person signing or delivering such instrument, stating the day and hour when it was so signed or delivered ; and it shall not be material whether the person or any of the persons (if more than one) who shall have signed such instrument shall be living or dead at the time of the delivery of it to such lord, steward or deputy, or of the entry thereof on the Court Rolls as hereinafter directed ; and such instrument shall forthwith, after the entry thereof on the Court Rolls of such manor, be returned to the person who shall have so left or delivered the same, or to his heirs or assigns, or to his or their attorney, solicitor or agent ; and every such instrument, after its having been so left or delivered, shall, with the indorsements thereon, be for all purposes whatsoever deemed and taken to be a memorandum of a customary surrender made out of Court, and shall operate and take effect as a customary surrender from the time of the signing of it, in the same manner as if the leaving or delivery thereof with or to the lord, steward or deputy, or the entry thereof on the Court Rolls had not been required or made necessary, except that every such instrument which shall not be signed in the presence of the lord of such manor, or his steward or the deputy of such steward, and the surrender thereby made shall be void against any person claiming the lands for a valuable consideration under a subsequent surrender, in case the instrument by which such subsequent surrender shall be made shall be first signed in the presence of or delivered to such lord, steward or deputy.

4.
After the
passing of this
Act, Bailiffs
and Copy-
holders are not
to accept
Surrenders of
Lands held by
Copy of Court
Roll.

And be it Enacted, That it shall not be competent for the Bailiff, Reeve or Headborough of any manor, or any person or persons holding lands of any manor by Copy of Court Roll, to accept or take after the *passing of this Act* any surrender of lands held of such manor by Copy of Court Roll, notwithstanding such Bailiff, Reeve, Headborough, or person or persons might under any custom of such manor, if this Act had not been passed, have accepted and taken

taken any such surrender; and every surrender of lands held by Copy of Court Roll, accepted and taken by such Bailiff, Reeve, Headborough, or person or persons, shall be absolutely void both at law and in equity.

5 And be it Enacted, That every surrender already made into the hands of the lord of any manor, either in person or by the acceptance of his steward, or the deputy of such steward, and not already entered on the Court Rolls of such manor; and every surrender already made into the hands of the lord of any manor by the
10 acceptance of the Bailiff or Reeve or Headborough of such manor, and any person or persons holding lands of such manor by Copy of Court Roll, or of any or either of them, such Bailiff, Reeve, Headborough, or other person or persons, and not already entered on the Court Rolls of such manor, whether the same has or has not been
15 already presented at a Customary Court held for such manor, but of which a memorandum has been already left with the lord of such manor, or his steward, or the deputy of such steward; and every deed or instrument whatsoever already executed (not being a will or codicil) which affects or relates to lands held by Copy of Court Roll, and which has
20 been left with the lord of the manor of which such lands are parcel, or his steward or the deputy of such steward, but which shall not have been already entered on the Court Rolls of such manor; and every grant and admission already made of and to any lands held by Copy of Court Roll and not already entered on the Court Rolls of the manor
25 of which such lands are parcel; and also every will and codicil, a copy of which has been already delivered to the lord of the manor of which the lands affected by such will or codicil are parcel, or his steward or the deputy of such steward, and not already entered on the Court Rolls of such manor, shall forthwith after the *passing of*
30 *this Act* be entered on the Court Rolls of such manor by the lord of such manor, or his steward or the deputy of such steward; and every surrender already made into the hands of the lord of any manor by the acceptance of the Bailiff or Reeve or Headborough of such manor, and of any person or persons holding of such manor lands by Copy
35 of Court Roll, or of any or either of them, such Bailiff, Reeve, Headborough, or other person or persons, and not already entered on the Court Rolls of such manor, and which has not been presented at a Customary Court held for such manor, and a memorandum of which has not been delivered to the lord of such manor, or his steward or the
40 deputy of such steward; and every deed or instrument whatsoever already executed (not being a will or codicil), which affects or relates to lands held by Copy of Court Roll, and which has not been left with the lord of the manor of which such lands are parcel, or his steward or the deputy of such steward, shall, forthwith on the delivery of such memorandum or deed to such lord, steward or deputy,
45 either in or out of court, and either within or out of such manor, be entered in the Court of Rolls of such manor; and such surrender,

126.

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will

5.
Surrenders
and Admis-
sions, &c.
already made
of Lands held
by Copy of
Court Roll to
be forthwith
entered on the
Court Rolls.

will or codicil, deed or other instrument, shall be entered on the Court Rolls, notwithstanding such surrender, will or codicil, deed or other instrument, or the death of the person whose will or codicil is to be so entered, or any other fact, matter or thing whatsoever, shall not have been previously presented at a Customary Court held for such manor. 5

6.
Surrenders,
&c. hereafter
made of Lands
held by Copy
of Court Roll,
&c. to be
forthwith en-
tered on the
Court Rolls.

And be it Enacted, That every surrender of lands held by Copy of Court Roll made after the *passing of this Act*, and before the *First day of January One thousand eight hundred and Thirty-nine*, and every will or codicil affecting lands held by Copy of Court Roll, a copy of which shall after the *passing of this Act* be delivered to the lord of the manor of which the lands affected by such will or codicil are parcel, or to his steward, or the deputy of such steward, and every deed or instrument whatsoever (not being a will or codicil, or an instrument of surrender under this Act), which shall be hereafter executed, and which shall affect or relate to lands held by Copy of Court Roll, and which shall be left with the lord of the manor of which such lands are parcel, or his steward or the deputy of such steward; and every instrument by which any surrender of lands held by Copy of Court Roll shall be made under or by virtue of this Act, and which shall be left with or delivered to the lord of the manor of which such lands are parcel, or his steward or the deputy of such steward, and also every grant and admission hereafter made by the lord of any manor, or his steward or the deputy of such steward, of lands held of such manor by Copy of Court Roll, and every fact relating to or affecting the title to any lands held by Copy of Court Roll, which shall be communicated in writing to or otherwise proved to the satisfaction of the lord of the manor of which such lands are parcel, or his steward or the deputy of such steward, shall forthwith, after the same shall be respectively delivered, left and communicated to and with such lord, steward or deputy, be entered on the Court Rolls of such manor by such lord, steward or deputy; and such surrender, will, codicil, deed or other instrument of surrender, grant, admission and fact, shall be entered on the Court Rolls, notwithstanding the same respectively, and notwithstanding, in the case of a will or codicil, the death of the testator, and notwithstanding any other fact, matter or thing whatsoever shall not have been previously presented at a Customary Court held for such manor. 10 15 20 25 30 35

7.
Lords and
their Stewards
to grant Ad-
missions out
of Court, &c.
on being
required, &c.

And be it Enacted, That it shall be lawful for the lord of any manor, or his steward or the deputy of such steward, at any time after the *passing of this Act*, and at any place, either within or out of such manor, and without holding a Customary Court for such manor, to make a grant of and an admission to any lands parcel of such manor to be held by Copy of Court Roll of or to which such lord shall for the time being be authorized or empowered to make any 40

any grant or admission to be held by Copy of Court Roll, so nevertheless that every such grant or admission be made to such person only as shall be entitled to such grant or admission, and for that estate only for which such person shall be entitled to such grant or admission; and the lord of any manor, or his steward or the deputy of such steward, shall forthwith, on a requisition in writing or otherwise, by any person for the time being entitled to a grant of or admission to any lands held by Copy of Court Roll of such manor, or by the attorney, solicitor or agent of such person, admit such person tenant of such lands to hold the same by Copy of Court Roll of such manor for that estate and interest for which such person shall for the time being be entitled to be admitted thereto, and shall admit such person without holding any Customary Court for that purpose; and notwithstanding a previous presentment of the surrender, will, codicil, instrument of surrender, deed or other instrument of fact under which such person shall be entitled to such admission, or of any prior grant, admission, surrender, will, codicil, instrument or surrender, deed or other instrument or fact, shall not have been presented at a Customary Court held for such manor; and every person shall be considered to be entitled to admission to lands held by Copy of Court Roll from the respective times following; (that is to say) in the case of a surrender already made, or of a will or codicil, a copy of which, or of a deed or other instrument (not being a will or codicil), which has been already left with the lord of the manor of which such lands or parcel, or his steward or the deputy of such steward, and of any fact already communicated to such lord, steward or deputy affecting or relating to the title to such lands, such person shall be so entitled to admission from and immediately after the *passing of this Act*; and in the case of a surrender hereafter to be made before the *Thirty-first day of December One thousand eight hundred and Thirty-eight*, such person shall be so entitled to admission from and immediately after such surrender shall be made; and in the case of a will or codicil, a copy of which or of a deed or other instrument (not being a will or codicil, nor an instrument of surrender under this Act), which shall be hereafter left with such lord, steward or deputy, or of a fact which shall be hereafter communicated to such lord, steward or deputy, or of an instrument of surrender under this Act, such person shall be so entitled to admission from and immediately after such copy, deed or other instrument, fact and instrument of surrender shall have been respectively delivered, left and communicated to and with such lord, steward or deputy.

And be it Enacted, That it shall not be essential to the validity of any surrender of lands held by Copy of Court Roll already made, and not entered on the Court Rolls of the manor of which such

126.

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lands

8.
It shall not be essential to the validity of a Surrender, &c. that it be presented at a Court.

lands are parcel, or of any surrender, of lands held by Copy of Court Roll made after the *passing of this Act*, and before the *First day of January One thousand eight hundred and Thirty-nine*, or of any deed or other instrument (not being an instrument of surrender under this Act) made after the *passing of this Act*, affecting or relating to lands held by Copy of Court Roll, or of any instrument of surrender under this Act of lands held by Copy of Court Roll, or of any grant or admission hereafter made of or to lands held by Copy of Court Roll, that such surrender, deed or other instrument, instrument of surrender, grant or admission respectively, or any prior grant, admission, surrender, will or codicil, deed or other instrument, instrument of surrender, or fact, shall have been or shall be presented at a Customary Court to be held for the manor of which such lands are parcel.

9.
Lords or their Stewards shall deliver to Persons Notice of all prior Surrenders not previously entered on the Court Rolls.

And be it Enacted, That the lord of every manor, or his steward or the deputy of such steward, shall on the requisition in writing of any person for the time being having or claiming any estate, right or interest, either at law or in equity, in any lands held of such manor by Copy of Court Roll, or his solicitor, agent or nominee, give to such person, or his solicitor, agent or nominee, notice in writing whether there are or are not any surrenders, deeds, instruments, instruments of surrender, wills, codicils or facts affecting such lands which shall have been respectively left, delivered or communicated with or to such lord, steward or deputy, but which shall not, at the time of making such requisition, have been entered on the Court Rolls of such manor, and, in case there shall be any such surrenders, deeds, instruments, instruments of surrender, wills, codicils or facts, shall also specify in such notice the nature and objects thereof; and the steward or deputy shall be entitled to the same fees and other charges for such notice, as he would be entitled to for an extract of similar length from the Court Rolls of such manor.

10.
Surrenders, &c. by Tenants in tail of Lands held by Copy of Court Roll to be valid under 3 & 4 W. 4, c. 74, notwithstanding they are not entered on the Court Rolls within Six calendar Months.

And be it Enacted, That every surrender already made by a tenant in tail, either at law or in equity, of lands held by Copy of Court Roll for effecting a disposition of such lands under an Act passed in the third and fourth years of the reign of his late Majesty, intituled, "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance," and which has been entered on the Court Rolls of the manor of which such lands are parcel; and every deed already executed by a tenant in tail in equity of lands held by Copy of Court Roll, for effecting a disposition of such lands under the said Act, and which has been entered on the Court Rolls of the manor of which such lands are parcel, shall be a valid and effectual disposition under the said Act, notwithstanding

notwithstanding such surrender and deed respectively shall not have been entered on the Court Rolls of such manor within *Six calendar Months* after the making and execution thereof respectively; and every surrender already made by a tenant in tail, either at law or in equity, of lands held by Copy of Court Roll for effecting a disposition of such lands under the said Act, and which has not been entered on the Court Rolls of the manor of which such lands are parcel, and also every surrender hereafter to be made before the *First day of January One thousand eight hundred and Thirty-nine* by a tenant in tail, either at law or in equity, of lands held by Copy of Court Roll for effecting a disposition of such lands under the said Act; and every deed already executed by a tenant in tail in equity of lands held by Copy of Court Roll for effecting a disposition of such lands under the said Act, and which has not been entered on the Court Rolls of the manor of which such lands are parcel; and every deed hereafter to be executed by a tenant in tail in equity of lands held by Copy of Court Roll for effecting a disposition of such Lands under the said Act, and every instrument of surrender to be signed after the *Thirty-first day of December One thousand eight hundred and Thirty-eight* by a tenant in tail, either at law or in equity, of lands held by Copy of Court Roll for effecting a disposition of such lands under the said Act, shall be a valid disposition under the said Act notwithstanding such surrender, deed or instrument of surrender respectively, shall not be entered on the Court Rolls of the manor of which such lands are parcel within *Six calendar Months* after the making, executing or signing thereof.

And be it Enacted, That every surrender already made and hereafter, before the *First day of January One thousand eight hundred and Thirty-nine*, to be made, into the hands of the lord of any manor, either in person or by the acceptance of his steward, or the deputy of such steward, either in or out of Court, by a tenant in tail either at law or in equity, of lands held of such manor by Copy of Court Roll for effecting a disposition of such lands under the said Act passed in the third and fourth years of the reign of his late Majesty, shall be deemed and taken to operate and take effect from the time of making such surrender, and that every surrender already made into the hands of the lord of any manor by the acceptance of the Bailiff or Reeve, or Headborough of such manor, and of any person or persons holding lands of such manor by Copy of Court Roll, or of any or either of them, such Bailiff, Reeve, Headborough or such other person or persons, by a tenant in tail either at law or in equity of lands held of such manor by Copy of Court Roll, for effecting a disposition of such lands under the said Act, shall be deemed and taken to operate and take effect either from the time when such surrender has been, or shall hereafter be presented at a Customary Court to be held for such manor, or from the time when the memorandum of such surrender has been, or shall be delivered to the

11.
When Surrenders by Tenants in tail of Lands held by Copy of Court Roll shall take effect under the 3 & 4 W. 4, c. 74.

lord of such manor or his steward, or the deputy of such steward, whichever shall first happen ; and that every deed already executed and hereafter to be executed by a tenant in tail in equity of lands held by Copy of Court Roll, for effecting a disposition of such lands under the said Act, shall be deemed and taken to operate and take 5 effect from the time when such deed has been or shall be left with the lord of the manor of which such lands are parcel, or his steward, or the deputy of such steward, for the purpose of being entered in the Court Rolls of such manor ; and that every deed already executed and hereafter to be executed by any Commissioner acting 10 in the execution of any fiat already issued or hereafter to be issued, in pursuance of the said Act passed in the first and second years of the reign of his late Majesty, for effecting a disposition under the said Act passed in the third and fourth years of the reign of his late Majesty, of lands held by Copy of Court Roll, either at law or in 15 equity, shall be deemed and taken to operate and take effect from the time when such deed has been or shall be left with the lord of the manor of which such lands are parcel, or his steward, or the deputy of such steward ; and that every instrument of surrender which after the *Thirty-first day of December One thousand eight hun-* 20 *dred and Thirty-eight*, shall be signed by a tenant in tail, either at law or in equity, of lands held by Copy of Court Roll, for effecting a disposition of such lands under the said Act of the third and fourth years of the reign of his late Majesty, shall operate and take effect 25 from the time when such instrument shall be left with or delivered to the lord of the manor of which such lands are parcel, or his steward, or the deputy of such steward ; and every such surrender, deed and instrument of surrender as aforesaid, shall be deemed and taken to operate and take effect from the respective times aforesaid, notwithstanding there may have been a prior surrender of such lands 30 into the hands of the lord of such manor of which such lands are parcel, by the acceptance of the Bailiff, or Reeve, or Headborough of such manor, and of some person or persons holding lands of such manor by Copy of Court Roll, or of any or either of them, such Bailiff, Reeve, Headborough or other person or persons, which shall 35 not have been presented at a Customary Court held for such manor, or of which a memorandum shall not have been left with the lord of such manor, or his steward, or the deputy of such steward, or there may have been a prior deed or instrument of surrender of such lands which shall not have been left with or delivered to such 40 lord, steward or deputy.

12.
Protectors of
Settlements
under the
3 & 4 W. 4,
c. 74, may
give their con-
sents to Dis-
positions by
Tenants in tail
under that
Act in Instru-

And be it Enacted, That after the *Thirty-first day of December One thousand eight hundred and Thirty-eight*, the consent of a protector of a settlement to a disposition under the said Act of the third and fourth years of the reign of his late Majesty, of lands held by Copy of Court Roll, may be given by the instrument of surrender or 45 by the deed whereby such lands shall be surrendered or disposed of for the

ments of Surrender under this Act.

the purpose of effecting a disposition under the said Act ; and every protector of a settlement, who shall give his consent by such instrument of surrender or deed, shall execute the same, either in the presence or in the absence of the lord of the manor, of which such lands are parcel, or his steward, or the deputy of such steward, and either on or before the day on which such instrument or deed shall be left with or delivered to such lord, steward or deputy ; and in case the protector of a settlement shall not give his consent, either by such instrument of surrender or deed as aforesaid, or by a distinct deed, then such consent shall be given to the lord, steward or deputy, in whose presence such instrument of surrender shall be signed, or to whom such instrument of surrender or deed shall be delivered, and either at the same time as or before such instrument of surrender shall be so signed in the presence of such lord, steward or deputy, or such instrument of surrender or deed shall be so delivered to such lord, steward or deputy ; and the lord, steward or deputy, to whom such consent shall be so given at the time of signing or delivering such instrument of surrender or deed, shall state in the memorandum, to be indorsed thereon, as hereinafter directed, that such consent had been given.

And be it Enacted, That the lord of any manor, or his steward, or the deputy of such steward, with or to whom any instrument of surrender or deed or other instrument (not being a will or codicil) affecting or relating to lands held of such manor by Copy of Court Roll, shall, after the *passing of this Act*, be left or delivered for the purpose of being entered on the Court Rolls of such manor, shall indorse thereon a memorandum, signed by him, of the day and hour on which the same shall have been so left or delivered ; and in case any such instrument of surrender, deed or other instrument shall be signed by a husband and wife, and such wife shall be examined separately and apart from her husband by the lord of the manor, of which the lands comprised in such instrument of surrender, deed or other instrument are parcel, his steward, or the deputy of such steward, then the lord, steward or deputy before whom such wife shall be so examined, shall forthwith state in the memorandum to be so indorsed on such instrument of surrender, deed or other instrument as aforesaid, that such wife had been so examined, and that she freely and voluntarily consented to the surrender or other disposition thereby intended to be made ; and such lord, steward or deputy shall enter such memorandum on the Court Rolls at the same time as the instrument of surrender, deed or other instrument on which it is indorsed shall be entered on the Court Rolls ; and such lord, steward or deputy, after entering on the Court Rolls any such instrument of surrender, deed or other instrument as aforesaid, with the memorandum indorsed thereon, shall indorse on such instrument of surrender, deed or other instrument, a memorandum, signed by

13.
Lords of Manors, &c. to indorse on Instruments of Surrender, &c. of Lands held by Copy of Court Roll the day, &c. of their being delivered to them.

him, testifying the entry of the same on the Court Rolls; and the memorandum so indorsed on any instrument of surrender, deed or other instrument as aforesaid, and purporting to be signed by the lord of the manor of which the lands comprised in such instrument of surrender, deed or other instrument are parcel, or his steward, or the deputy of such steward, shall be *prima facie* evidence of the facts stated in such memorandum respectively, and that the person who signed such memorandum was the lord of such manor, or his steward, or the deputy of such steward, as the case may be. 5

14.
Lords and
Stewards to be
entitled to the
same Fines
and Fees on
Instruments
of Surrenders,
&c. under this
Act as on
Surrenders at
General
Courts.

And be it Enacted, That lords of manors and their stewards, and the deputies of such stewards respectively, shall be entitled to the same fines, fees and other charges on the leaving with and delivery to them respectively, of instruments of surrender and deeds or other instruments (not being wills or codicils) affecting or relating to lands held by Copy of Court Roll, and on their making of grants and admissions out of Court, pursuant to this Act, of and to lands held by Copy of Court Roll, as such lords, stewards and deputies respectively would have been entitled to, if in the case of surrenders made by such instruments of surrender, deeds or other instruments as aforesaid; and in the case of such grants and admissions as aforesaid, the same respectively had been made at general Customary Courts, held for the respective manors of which the lands so surrendered, or to which such grants and admissions shall be made, are parcel, and the person by or to whom such surrenders, grants and admissions were respectively made, were personally present at such courts; and if in the case of those deeds or other instruments, whereby surrenders shall not have been made, such deeds or other instruments had been duly presented at general Customary Courts held for the respective manors of which the lands affected by such deeds or other instruments are parcel. 10 15 20 25 30

15.
Entries on
Court Rolls
pursuant to
this Act to be
deemed to be
Entries of
Transactions
at Courts, &c.

And be it Enacted, That it shall be imperative on every lord of every manor, and his steward, and the deputy of such steward, to receive, for the purpose of entry on the Court Rolls of such manor, every memorandum of surrender, deed or other instrument (not being a will or codicil), copy of will or codicil, and statement in writing of any fact respectively affecting or relating to lands held of such manor by Copy of Court Roll, which shall, after the *passing of this Act*, be tendered or delivered to such lord steward or deputy for that purpose, either in or out of Court, and either within or out of such manor; and all entries made on the Court Rolls of any manor, in pursuance of this Act, shall for all purposes whatsoever be deemed and taken to be entries of transactions, matters and things respectively done at, and duly presented at Customary Courts held for such manor; and a copy of any such entry shall for the purposes of evidence, 35 40

dence, and for all other purposes whatsoever, be of the same force and effect, as if the same was a copy of an entry of a transaction, matter and thing respectively done at and duly presented at a Customary Court held for such manor ; and the steward and his deputy,
 5 who shall make any entry on the Court Rolls of any manor, in pursuance of this Act, shall be entitled to the same fees and other charges for making such entry on the Court Rolls as he would have been entitled to for making such entry in case the same had been an entry of a transaction, matter or thing done at or duly presented at a Customary Court held for such manor.
 10

And be it Enacted, That the directions in this Act contained, respecting the fees and other charges to which stewards of manors or their deputies shall be entitled in certain cases, shall not prejudice or affect any order or orders already made, or hereafter to be made
 15 in pursuance of the said Act of the third and fourth years of the reign of his late Majesty, by the Court of Common Pleas at Westminster, touching the amount of the fees and charges to be paid for the entries of deeds, by that Act required to be entered on the Court Rolls of manors, or for the indorsements thereon, or for taking the consent of Protectors of settlements of lands held by Copy of Court Roll, where such consent shall not be given by deed, it being the intent and meaning of this Act that for the entries of such deeds, and for such indorsements, and for taking such consents, stewards of manors and their deputies shall be entitled to such respective fees
 20 and charges only as have been or shall hereafter be mentioned in such order or orders respectively ; and that in all other cases, such stewards or deputies shall be entitled to such fees and charges only as are mentioned or referred to in this Act, notwithstanding any order or orders already made or hereafter to be made by the Court
 25 of Common Pleas at Westminster, in pursuance of the said Act of the third and fourth years of the reign of his late Majesty.
 30

16.
 The Directions in this Act respecting the Fees, &c. to which Stewards are to be entitled are not to interfere with any Orders of the Court of Common Pleas, pursuant to the 3 & 4 W. 4, c. 74.

And be it Enacted, That any lands held by Copy of Court Roll which at the time of the *passing of this Act* are or hereafter shall be severed from the manor of which such lands are parcel, shall and
 35 may, so long as such lands shall continue severed from such manor, be aliened, devised and disposed of, and shall descend and devolve for an estate at law, by and from the person who at the time of the *passing of this Act* is, or at the time when the same shall be so severed, shall be seised of or entitled to such lands for any copyhold
 40 or customary estate or interest, in the same manner in every respect as if such lands were held by such person in free and common socage.

17.
 Lands held by Copy of Court Roll, which are severed from the Manor, may be aliened as if Freehold.

And be it Enacted, That every Lease already granted (whether subsisting at the time of *passing of this Act* or not) or hereafter to be
 126. granted

18.
 Every Lease of Lands held by Copy of Court Roll

granted without a License by the Lord, shall be as valid as if granted with such License.

granted of lands held by Copy of Court Roll without a license by the lord of the manor of which such lands are parcel, or for a term of years, or any other estate, not authorized by a license actually obtained from such lord prior to the granting of such lease, shall be deemed and taken respectively to have been and to be as good, valid and binding on all persons whomsoever (including the lord of such manor) as the same would have been if granted under a license by a lord seised of such manor for an absolute and indefeasible estate in fee simple in possession, or (as the case may be) if granted in strict compliance with a license actually obtained from a lord seised of such manor for an absolute and indefeasible estate in fee simple in possession actually obtained, and it shall not be deemed or taken that the person granting such lease has in consequence thereof forfeited to the lord of such manor the lands thereby demised.

19.

A Lease rendered valid by this Act shall not continue in force after the Lord shall become entitled to possession.

Provided always, and be it Enacted, That any lease of lands held by Copy of Court Roll hereby rendered valid, whether already granted or hereafter to be granted, shall not continue in force after the lord of the manor of which such lands may be parcel shall have become entitled to the actual possession of such lands, freed and discharged from all claims and demands whatsoever by any person under the custom of such manor to have such lands regranted out to be held by Copy of Court Roll.

20.

This Act shall not render valid any Lease already granted, if the Lord shall have entered for the Forfeiture incurred by such Lease, and shall not prejudice any proceedings now pending.

Provided always, and be it Enacted, That this Act shall not render valid any lease already granted of lands held by Copy of Court Roll, if the lord of the manor of which the lands comprised in such lease are parcel shall, previously to the *passing of this Act*, have actually seised or entered on such lands for or on account of the forfeiture incurred by the granting of such lease; and this Act shall not prejudice or affect any proceedings at law or in equity pending at the time of the *passing of this Act*, in which the right of the lord of any manor to seise or enter on lands comprised in any lease for or on account of the forfeiture incurred thereby shall be in question.

21.

Fines to Lords in respect of Lands comprised in Leases rendered valid by this Act granted for building purposes, not to exceed Twice the yearly Rent reserved in such Leases.

And be it Enacted, That in every case in which a lease of Lands held by Copy of Court Roll rendered valid by this Act, whether already granted and subsisting at the time of *passing of this Act*, or hereafter to be granted, has been or shall be granted to any person who has covenanted or shall covenant in such lease to build upon, or otherwise improve the lands thereby demised, or any of them, or any part or parts thereof, and such lease shall have been granted without any fine or premium except the covenant therein contained, to build upon or improve such lands, the fine hereafter during the continuance of such lease, to be payable in respect of such lands to the lord of the

the manor of which such lands are parcel, shall not in any case exceed twice the annual rent reserved by such lease, in respect of such lands; and that in every other case of a lease of lands held by Copy of Court Roll rendered valid by this Act, the lord of the

5 manor of which such lands are parcel, shall be entitled to the same fines, fees and payments in respect of such lease, as such lord would, according to the terms upon which licenses to demise land parcel of such manor are usually granted, have been entitled to in respect of such lease, if the same had been granted under a license.

but, as in all other cases of Lands the Leases of which are rendered valid by this Act, the Lord to be entitled to the usual Fines, &c.

10 Provided always, and be it Enacted, That nothing in this Act contained shall apply to any lease of lands held by Copy of Court Roll where a license, by the lord of the manor, of which such lands are parcel, to demise or lease such lands is not requisite, either according to the custom of such manor or otherwise.

22. This Act shall not apply to any Lease where a License by the Lord is not requisite.

15 And be it Enacted, That after the *Thirty-first day of December One thousand eight hundred and Thirty-eight* all customs relating to Curtesy and Dower, or Freebench in lands held by Copy of Court Roll, shall cease and determine, except customs relating to Dower or Freebench out of lands held by Copy of Court Roll being either

20 copyhold or customary for any life or lives, where, according to the custom of the manor of which such lands are parcel, the Copyholders have a perpetual right of renewal.

23. After the 31st December 1838, all customs relating to Curtesy and Dower, or Freebench in Lands held by Copy of Court Roll, shall determine, except in Copyhold for Lives where there is not a perpetual right of renewal.

And be it Enacted, That the widow of every husband who shall die after the *Thirty-first day of December One thousand eight hundred*

25 *and Thirty-eight* shall be entitled to Dower or Freebench out of all Lands held by Copy of Court Roll (being copyhold or customary of inheritance), of or to which such husband shall at the time of his death be seised or entitled, either at law or in equity, in case such husband shall be so seised of or entitled to such Lands for an

30 estate or interest which, if he had held such Lands in free and common socage, would have entitled his widow to dower in or out of the same.

24. Widows of Husbands dying after the 31st December 1838, shall be entitled to Dower out of Copyholds of inheritance where if Freehold they would be entitled to Dower therein.

And be it Enacted, That in every case in which a husband shall die after the *Thirty-first day of December One thousand eight*

35 *hundred and Thirty-eight*, seised of or entitled to, either at law or in equity, any lands held by Copy of Court Roll (being copyhold or customary for any life or lives, where, according to the custom of the manor of which the lands are parcel, the Copyholders have a perpetual right of renewal), and such husband shall be so seised in pos-

40 session, or entitled to the receipt of the rents, issues and profits thereof, and shall be so seised or entitled in his own right for the whole copyhold or customary estate or interest, and also to such per-

25. Widows of Husbands dying after the 31st December 1838, and seised of the whole Estate in Copyholds for Lives where there is a perpetual right of renewal, shall be entitled to Dower thereout.

petual right of renewal, then the widow of such husband shall be entitled to dower or freebench out of such lands, in the same manner in every respect as if her husband had been seised or entitled to such lands for an estate or interest which, if he had held the same in free and common socage, would have entitled her to dower in or out of the same. 5

26.

The Dower of Widows in Lands under this Act to be One-third of such Lands for their lives, and all the Laws relating to Dower out of Lands held in free and common socage shall, mutatis mutandis, apply to Dower, to which a Widow shall be entitled under this Act.

And be it Enacted, That every widow who shall be entitled under this Act to dower or freebench out of lands held by Copy of Court Roll, shall be entitled for such dower or freebench to one equal *third part* of such lands during her life, and shall be entitled to such dower or freebench notwithstanding she would not, according to the custom of the manor of which the lands may be parcel, have been entitled to any dower or freebench out of such lands if this Act had not been passed; and every widow shall have the same rights and remedies for the recovery of such dower or freebench as she would have had if this Act had not been passed, and she had been entitled to such dower or freebench according to the custom of the manor of which the lands out of which she is entitled to such dower or freebench are parcel, and shall be admitted to the lands to which she may become entitled for her dower or freebench without paying any fine, fee or any other payment in respect of her admission to such lands; and all the laws relating to dower out of lands held in free and common socage shall, so far as circumstances and the different tenures will admit, apply to dower and freebench to which a widow shall be entitled under this Act in lands held by Copy of Court Roll, except that in any surrender to the use of a husband of lands held by Copy of Court Roll, it may be declared that his widow shall not be entitled to dower or freebench out of such lands; and except that every deed, by which it shall be declared that a widow shall not be entitled to dower out of any lands held by Copy of Court Roll, shall be entered on the Court Rolls of the manor of which such lands are parcel; and except that every will, in which a declaration shall be made affecting the dower of any widow out of lands held by Copy of Court Roll, shall be duly executed for the devise of lands held by Copy of Court Roll, and it shall not be necessary for the husband to surrender such lands to the use of his will. 10 15 20 25 30 35

27.

This Act not to extend to the Dower of any Widow who shall have been married before the 1st of January 1839.

And be it Enacted, That this Act shall not extend to the dower of any widow who shall have been or shall be married before the *First day of January One thousand eight hundred and Thirty-nine*, and shall not give to any will, deed, contract, engagement or charge, executed, entered into or created before the *First day of January One thousand eight hundred and Thirty-nine*, the effect of defeating or prejudicing any right of dower. 40

And

And be it Enacted, That the husband of every woman who shall die after the *Thirty-first day of December One thousand eight hundred and Thirty-eight* shall be entitled for his life, as tenant by the Curtesy of England, to the entirety of all lands held by Copy of Court Roll (being copyhold or customary of inheritance) by such husband and wife in her right at the time of her decease, in case such husband and wife in her right shall be seised of or entitled to such lands either at law or in equity, for an estate or interest which, if such husband and wife had in her right held such lands in free and common socage, would have entitled such husband to Curtesy in or out of the same; and such husband shall be so entitled, as tenant by the Curtesy of England, to lands so held by Copy of Court Roll by him and his wife in her right, notwithstanding he would not, according to the custom of the manor of which such lands are parcel, have been tenant by the Curtesy of such lands if this Act had not been passed; and every husband shall have the same rights and remedies for the recovery of the lands held by Copy of Court Roll to which he shall be entitled under this Act, as tenant by the Curtesy of England, as he would have had if this Act had not been passed, and he had been entitled to such lands, as tenant by the Curtesy of England, according to the custom of the manor of which the lands are parcel, and shall be admitted thereto, without paying any fine, fee or other payment for his admission to such lands; and all the laws relating to an estate, by the Curtesy of England, in lands held in free and common socage shall, so far as circumstances and the different tenures will admit, apply to an estate under this Act, by the Curtesy of England, in lands held by Copy of Court Roll.

And be it Enacted, That this Act shall not entitle any husband, as tenant by the Curtesy of England, to any lands held by Copy of Court Roll by him and his wife in right, in case such husband and wife shall have been or shall be married before the *First day of January One thousand eight hundred and Thirty-nine*.

And be it Enacted, That all the provisions in this Act contained, which apply to or refer to lands held by Copy of Court Roll shall apply to or refer to lands of the tenures respectively called customary freehold and tenant right, in those cases where the freehold of such lands shall be in the lord of the manor of which such lands shall be parcel.

28.
Husbands of Women dying after the 31st December 1838 to be entitled as Tenants by the Curtesy to the entirety of all Copyhold Lands held by them, in right of their Wives, for Interests which, if such Lands were Freehold, would have entitled them to be Tenants by the Curtesy.

29.
Husbands married on or before the 1st of January 1839 not to be entitled to Curtesy under this Act.

30.
All the provisions of this Act applicable to Lands held by Copy of Court Roll shall apply to Customary Freeholds and Tenant-right Estates where the Freehold is in the Lord.

Copyholds Improvement.

A

B I L L

For the Amendment of the Law relating to
Lands held by Copy of Court Roll.

(Prepared and brought in by
Mr. Attorney-General & Mr. Solicitor-General.)

*Ordered, by The House of Commons, to be Printed,
8 February 1838.*

27 February 1838.—1 VICT.



A

B I L L

To amend the Law relating to Copyright.

[Note.—The Words printed in *Italics* in the Bill are proposed to be inserted in the Committee.]

WH ~~H~~ ~~E~~ ~~R~~ ~~E~~ ~~A~~ ~~S~~ it is expedient to amend the Law relating to Copyright, and to afford greater encouragement to Authors ;
BE ~~I~~ ~~T~~ ~~E~~ ~~N~~ ~~A~~ ~~C~~ ~~T~~ ~~E~~ ~~D~~, by The QUEEN's most Excellent MAJESTY, by
and with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
Authority of the same, THAT from and after the *passing of this Act*, an
Act passed in the eighth year of the reign of her Majesty Queen
ANNE, intituled, "An Act for the Encouragement of Learning, by
vesting the Copies of Printed Books in the Authors or Purchasers of
such Copies during the times therein mentioned;" and also an Act
passed in the forty-first year of the reign of his Majesty King
GEORGE the Third, intituled, "An Act for the further Encouragement
of Learning in the United Kingdom of Great Britain and Ireland, by
securing the Copies and Copyright of Printed Books to the Authors
of such Books, or their Assigns for the time therein mentioned;"
and also an Act passed in the fifty-fourth year of the reign of his
Majesty King GEORGE the Third, intituled, "An Act to amend the
several Acts for the Encouragement of Learning, by securing the Copies
and Copyright of Printed Books to the Authors of such Books, or
their Assigns," be and the same are hereby Repealed, except so far as
the continuance of them or either of them may be necessary to the
conduct of any proceedings at law or in equity which may be pending
at the time of *passing this Act*, or to the enforcement of any cause of
action or suit which may then have accrued.

Preamble.
1.
Repeal of
former Acts,
8 Anne, c. 19.
41 Geo. 3,
c. 107.
54 Geo. 3,
c. 156 (ex-
tending Copy-
right in
Books).

2.
Interpretation
Clause.

And be it Enacted, That in the construction of this Act, the word "Book" shall be construed to mean and include every volume, pamphlet, part of any work separately published, sheet of letter-press, and sheet of music, map, chart or plan; that the word "Dramatic Piece" shall be construed to mean and include every tragedy, comedy, 5
play, opera, oratorio, farce, or other scenic musical or dramatic entertainment; that the word "Copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied; that the words "British Dominions" shall be construed to mean and include 10
all parts of the United Kingdom of Great Britain and Ireland, the Islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements and possessions of the Crown, which now are or hereafter may be acquired; and that whenever in this Act, in describing any person or party, matter or thing, the word importing 15
the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing respectively, unless there shall be something in the subject or context repug- 20
nant to such construction.

3.
Copyright
in any Book
hereafter to
be published
to endure to
the Author
for life, and
for Sixty
Years, com-
mencing at
his death.

And be it Enacted, That the Copyright in any Book which shall hereafter be published shall be the property of the Author thereof, and his assigns, for the term of the natural life of such Author, and the further term of Sixty Years; commencing at the time of his 25
death.

4.
CLAUSE (A.)
In case of
subsisting
Copyright
in the Author
or his Repre-
sentative or
Assignee in
consideration
of natural
love and affec-
tion, such
Copyright
shall continue
for Sixty
Years from
the Author's
death.

And be it Enacted, That in all cases in which the Copyright in any Book shall be subsisting at the time of passing this Act, and shall be the property of the Author thereof, or of the personal representative, legatee, widow or next of kin of such Author or other person who may 30
have acquired the same in the course of the administration of the estate of such Author, or of any person to whom such Author may have assigned the same in consideration of natural love and affection, such Copyright shall continue and belong to the party so entitled to the 35
same and his assigns until the expiration of Sixty Years, commencing at the death of such Author, subject nevertheless to any charge subsisting upon the same, and to any license or contract granted or made relating thereto, which shall remain in force according to the true intent thereof.

5.
CLAUSE (B).
In case of
subsisting
Copyright
when an
Author has
assigned a
Moiety or

And be it Enacted, That in all cases in which the Copyright in any 40
Book shall be subsisting at the time of passing this Act, and a moiety or other portion of the Author's entire term and interest therein shall have been assigned, and the residue of such interest, either absolutely
or

or subject to any charge or encumbrance, shall remain in such Author, or his personal representative, legatee, widow, next of kin, or other person claiming in the course of the administration of the estate of such Author, such Copyright shall continue until the expiration of Sixty Years from the death of such Author, and shall belong to such Author, or his personal representative, legatee, widow or next of kin, or other person claiming in the course of the administration of the estate of such Author and to such assignee in the same proportions as the Copyright in such Book shall at the time of the passing this Act belong to such Proprietors thereof respectively, subject to the subsisting terms of such assignment, or of any contract subsisting between such Proprietors, and also subject to any subsisting charge on the whole or any portion of the interest of either of such Proprietors, or any license or contract granted or entered into by them, or any or either of them, relating thereto, which shall remain in force according to the true intent thereof.

other portion of his entire term, such Copyright shall continue for Sixty Years from the Author's death, and belong to the Author and the Assignee in the same proportions as the subsisting Copyright.

And be it Enacted, That in all cases in which the Copyright in any Book shall be subsisting at the time of passing this Act, and the Author thereof shall before the passing of this Act have assigned or agreed to assign his whole interest in such Copyright for other consideration than natural love and affection, such Copyright shall continue and belong to the assignee thereof and his assigns until the expiration of the term of Twenty-eight Years from the first publication of such Book, and in case the Author shall then be living, for the residue of the life of such Author; and upon the expiration of the said term of Twenty-eight Years, if the Author shall then be dead, or otherwise at the death of such Author, the Copyright in such Book shall wholly determine and cease.

6.
CLAUSE (C.)
In cases of subsisting Copyright which has been absolutely assigned by the Author, the Assignee shall enjoy the same for the term of Twenty-eight Years, and of the Author's life, if he survive Twenty-eight Years, and no longer.

And be it Enacted, That in case at any time after the expiration of such term of Copyright in any work as by law defined before and at the passing of this Act, and during the subsistence of the term of Copyright under this Act in any Book, such Book shall be out of print, and a period of Five Years shall have elapsed without the publication of an edition of such Book, it shall be lawful for any person desirous of republishing the same, to give notice by advertisement inserted in the London Gazette once in each week for Three successive weeks, and in cases where an entry of or relating to the Copyright of such Book shall have been made in the Registry hereinafter mentioned, by writing under his hand, addressed to every party who shall appear by such entry to be a proprietor of the Copyright of such Book, or to have any subsisting interest in such Copyright, and left at the last place of publication of such Book, and at the last known place of abode of every such proprietor and party interested as aforesaid, that the said

7.
CLAUSE (D.)
In cases where, after the expiration of the term of Twenty-eight Years, or the Author's life, a book shall be out of print, and Five Years shall elapse without the appearance of an edition, it shall be lawful for any person, after certain notice, to republish such Book, and to enjoy the Copyright therein.

Book is out of print, and that it is the intention of such person to republish the same; and it shall be lawful for such person, after the insertion of such advertisements, and the giving of such notice, where such notice shall be required, if no new edition of such Book shall in the meantime be published, at the expiration of Twelve calendar Months, to be computed from the time of the insertion of the last of such advertisements, or the giving such notice, to republish such Book; and upon such republication the Copyright of such Book shall belong to the person who shall have inserted such advertisements or given such notice for the residue of the term of Copyright then subsisting by virtue of this Act, and subject to the provisions of this Act. 5 10

8.
One Copy of every Book to be delivered at the British Museum.

And be it Enacted, That a printed Copy of the whole of every Book, and of any second or subsequent Edition of every Book containing additions or alterations, which shall be published after the passing of this Act, bound, sewed or stitched together, and upon the best paper on which the same shall be printed, together with all Maps, Prints or other Engravings belonging thereto, finished and coloured in the same manner as the best Copies of the same shall be published, shall within One calendar Month after the day on which any such Book shall be first sold, published or offered for sale within the Bills of Mortality, or within Three calendar Months if the same shall be exclusively sold, published, advertised or offered for sale in any other part of the United Kingdom, be delivered on behalf of the Publisher thereof at the British Museum. 15 20

9.
Mode of delivering at the British Museum.

And be it Enacted, That every Copy of any Book, which under the provisions of this Act ought to be delivered as aforesaid, shall be delivered at the British Museum between the hours of Ten in the forenoon and Four in the afternoon, on any day in the week except Sunday, to the Librarian or one of the Librarians or Officers of the said Museum, or to some person authorized by the Trustees of the said Museum to receive the same, and such Librarian, Officer or other person receiving such Copy is hereby required to give a receipt in writing for the same, and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this Act. 25 30 35

10.
A Copy of every Book to be delivered within a Month after demand for the use of the following Libraries: Bodleian Library, Public Library at Cambridge, Advocates of

And be it Enacted, That a Copy of the whole of every Book, and of any second or subsequent Edition of every Book containing additions and alterations, together with all Maps and Prints belonging thereto, which after the passing of this Act shall be published, shall, on demand thereof in writing left at the place of abode of the Publisher thereof at any time within Twelve Months next after the publication thereof, under the hand of the Officer of the Company of Stationers who shall from time to time be appointed by the said Company for the purposes of this Act, or under the hand of any 40

Edinburgh,
Trinity Col-
lege, Dublin.

any other person thereto authorized by the Persons or Bodies Politic and Corporate, Proprietors and Managers of the Libraries following, (videlicet) the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, the Library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, be delivered, in the like condition as the Copies prepared for sale by the Publisher thereof respectively, within One Month after demand made thereof in writing as aforesaid to the said Officer of the said Company of Stationers for the time being, which Copies the said Officer shall and he is hereby required to receive at the Hall of the said Company for the use of the Library for which such demand shall be made within such Twelve Months as aforesaid; and the said Officer is hereby required to give a receipt in writing for the same, and within One Month after any such Book shall be so delivered to him as aforesaid, to deliver the same for the use of such Library.

11.
Publishers
may deliver
the Copies to
the Libraries
instead of the
Stationers'
Company.

Provided also, and be it Enacted, That if any Publisher shall be desirous of delivering the Copy of such Book as shall be demanded on behalf of any of the said Libraries at such Library, it shall be lawful for him to deliver the same at such Library free of expense to such Librarian or other person authorized to receive the same (who is hereby required in such case to receive and to give a receipt in writing for the same), and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said Officer of the Stationers' Company.

12.
Penalty for
default in
delivering
Copies for the
use of the
Libraries.

And be it Enacted, That if any Publisher of any Book, or of any second or subsequent Edition of any Book containing additions or alterations, which shall be published after the passing of this Act, shall, having been thereunto lawfully required, neglect to deliver the same pursuant to this Act, he shall for any such default forfeit, besides the value of such Copy of such Book or Edition which he ought to have delivered, the sum of Five Pounds, to be recovered by the Librarian of the Library for the use whereof such Copy should have been delivered in a summary way, on conviction before Two Justices of the Peace for the county or place where the Publisher making default shall reside, or by action of debt at the suit of such Librarian in any Court of Record in the United Kingdom, in which action, if the Plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

13.
Book of
Registry to be
kept at Sta-
tioners' Hall.

And be it Enacted, That a Book of Registry, wherein may be registered, as hereinafter enacted, the proprietorship in the Copyright in Books and assignments thereof, and licenses of and affecting such Copyright, shall at all times be kept at the Hall of the Stationers' Company.

Company by the Officer appointed by the said Company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person, on payment of One shilling for every entry which shall be searched for or inspected in the said Book ; and that such Officer shall, whenever thereunto reasonably required, give a copy 5 of any entry in such Book, certified under his hand, and impressed with the seal or stamp of the said Company, to any person requiring the same, on payment to him of the sum of Five Shillings; and such copies so certified and impressed shall be received in evidence in all Courts and 10 in all summary proceedings, and shall be deemed and taken to be primâ facie proof of the proprietorship or assignment of Copyright or license as therein expressed, but subject to be rebutted by other evidence.

14.
Party making
or causing to
be made a
false Entry
in the Book
of Registry to
be guilty of a
Misdemeanor.

And be it Enacted, That if any person shall wilfully make or cause to be made any false entry in the Registry Book of the Stationers' 15 Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said Book, he shall be guilty of an indictable Misdemeanor, and shall be punished accordingly.

15.
Entries of
Copyright
may be made
in the Book of
Registry.

And be it Enacted, That after the passing of this Act it shall be 20 lawful for the Proprietor of Copyright in any Book heretofore published, or in any Book hereafter to be published, to make entry in the Registry Book of the Stationers' Company of the title of such Book, the time of the first publication thereof, the name and place of abode of the Publisher thereof, and the name and place of abode of the Pro- 25 prietor of the Copyright of the said Book, and of the interest of any person who may have been entitled to or interested in such Copyright, by virtue of any assignment or license, in the form in that behalf given in the Schedule to this Act annexed, upon payment of the sum of Five Shillings to the officer of the said Company ; and that it 30 shall be lawful for every such registered Proprietor of Copyright, and every person whose assignment or license shall appear in the said Registry, to assign his interest therein, or any portion thereof, or to give any license for the publication of Copies of such Book, by making entry in the said Book of Registry of such assignment or license, and 35 of the name and place of abode of the assignee thereof or party so licensed, in the form given in that behalf in the said Schedule, on payment of the like sum ; and such assignment and license so entered shall be good and effectual in law to all intents and purposes whatsoever, without being subject to any Stamp or Duty, and shall be 40 of the same force and effect as if such assignment or license had been made by deed: Provided always, That no original entry of the proprietorship of the Copyright in or to any Book hereafter to be published

published shall be made without the concurrence, expressed in writing, of the Publisher by whom such Book shall be published, according to the form in that behalf given in the said Schedule.

And be it Enacted, That if any person shall deem himself ag-
 5 grievd by any entry made under colour of this Act in the said Book
 of Registry, it shall be lawful for such person to apply by Petition,
 supported by Affidavit, to the Lord High Chancellor, Master of the
 Rolls or Vice Chancellor, or to apply by motion to the Court of
 Queen's Bench, Court of Common Pleas or Court of Exchequer, in
 10 Term time, or to apply by Summons to any Judge of either of such
 Courts in Vacation, for an order that such entry may be expunged or
 varied; and that upon any such Petition it shall be lawful for the
 Lord High Chancellor, Master of the Rolls or Vice Chancellor, upon
 hearing the matter of such Petition, if the parties petitioned against
 15 appear, or on due proof of the service of such Petition on all such
 parties as he shall think necessary, in case such parties do not appear,
 or upon being satisfied that reasonable ground exists for such parties
 not having been served with such Petition, to make such order for
 expunging, varying or confirming such entry, and as to the costs of
 20 such application, as to him shall seem just; and upon any such appli-
 cation by Motion or Summons to either of the said Courts, or to a
 Judge as aforesaid, such Court or Judge shall make such order for
 expunging, varying or confirming such entry, either with or without
 costs, as to such Court or Judge shall seem just; and the officer
 25 appointed by the Stationers' Company for the purposes of this Act
 shall, on the production to him of any such order for expunging or
 varying any such entry, expunge or vary the same according to the
 requisitions of such order.

16.

CLAUSE (E.)
 If any person
 be aggrieved
 by any entry
 in the Book
 of Registry,
 he may apply
 to the Lord
 Chancellor,
 Master of the
 Rolls, Vice
 Chancellor,
 Court of Law
 in Term, or
 Judge in
 Vacation,
 who may
 order such
 entry to be
 varied or
 expunged.

And be it Enacted, That if any person shall in any part of the British
 30 Dominions, after the passing of this Act, print or cause to be printed
 either for sale or exportation any Book in which there shall be sub-
 sisting Copyright, or any Book containing any portion of a Book in
 which there shall be such Copyright (except as hereafter mentioned),
 without the consent in writing of the Proprietor of such Copyright, or
 35 shall import any such Book so having been unlawfully printed from parts
 beyond the sea, or knowing such Book to have been so unlawfully
 printed or imported, shall sell, publish or expose to sale, or cause to be
 sold, published or exposed to sale, or shall have in his possession for
 sale any such Book so unlawfully printed or imported, without such
 40 consent as aforesaid, such offender shall be liable to a special action
 on the case at the suit of the Proprietor of such Copyright, to be
 brought in any Court of Record in that part of the British Dominions
 in which the offence shall be committed, and every such Proprietor

17.

Remedy for
 the Piracy of
 Books or parts
 of Books by
 Action on the
 Case.

Proviso for
Scotland.

shall in such action recover such damages as the Jury, on the trial of such action, or on the execution of a writ of inquiry thereon, where the trial shall be by Jury, or the Court in which such trial shall be had, where there shall be no Jury, shall give or assess (not being in any case less than Forty Shillings), with all costs of suit reasonably incurred, to be taxed as between attorney and client: Provided always, That in Scotland such offender shall be liable to an action in the Court of Session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there; and in any such action where damages shall be awarded, all reasonable costs of suit or expenses of process shall be allowed as between attorney and client: Provided always, That nothing herein contained shall be construed to extend to the publication of any extracts fairly and bonâ fide made from any Book for the purpose of criticism, observation or argument, or to any Abridgment of a Book fairly and bonâ fide made, or to any translation of any Book into another language; but the Copyright in every translation shall be deemed to be the property of the Translator thereof and his assigns as though it were an original work.

18.
CLAUSE (F.)
In Actions for
Piracy, the
Defendant to
give notice in
writing of the
objections to
the Plaintiff's
title on which
he means to
rely.

And be it Enacted, That after the passing of this Act, in any Action brought within the British dominions against any person for printing any such Book or portion of a Book as aforesaid, or for importing, selling, publishing or exposing to sale, or causing to be imported, sold, published or exposed to sale, any such Book or portion as aforesaid, the Defendant on pleading thereto shall give to the Plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the Plaintiff in such action was not the Author or first Publisher of the Book in which he shall by such action claim Copyright, or is not the proprietor of the Copyright therein, or that some other person than the Plaintiff was the Author or first Publisher of such Book, then the Defendant shall specify in such notice the name of the person who he alleges to have been the Author or first Publisher of such Book, or the proprietor of the Copyright therein, together with the title of such Book, and the time when and the place where such Book was first published, otherwise the Defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the Plaintiff in such action was not the Author or first Publisher of the Book in which he claims such Copyright as aforesaid, or that he was not the proprietor of the Copyright therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such Defendant than the objections stated in such Notice, or that any other person was the Author or first Publisher of such Book or the proprietor of the Copyright therein than the person specified in such Notice, or

give

give in evidence in support of his defence any other Book than one substantially corresponding in title, time and place of publication, with the title, time and place specified in such Notice.

19.
CLAUSE (G.)
Mode of proving the Publication and Identity of Books in Proceedings for Piracy.

AND whereas it would greatly tend to the discouragement and suppression in the British Dominions of the piracy of Books first printed and published in the United Kingdom, wherein Copyright shall be subsisting at the time of the passing of this Act, if greater facilities than are now provided by law were given for proof in all the Courts of Her Majesty's Dominions of the proprietorship of Copyright, and of the publication of Books wherein Copyright shall subsist, and of the identity of Books wherein Copyright should be claimed, with such Certificate of Registry as hereinbefore mentioned, and of the decrees, orders, judgments and proceedings in the Courts of the United Kingdom in all causes, petitions and proceedings relating to Copyright and the piracy thereof; BE it therefore Enacted, That after the passing of this Act the Officer of the said Company of Stationers shall, whenever thereunto reasonably required, upon production to him of any Book purporting to have been printed and appearing to him to have been printed within any part of the United Kingdom, corresponding in title, name and place of abode of the registered Publisher and Proprietor thereof, with the title, name and place of abode so entered in such Registry as aforesaid, to certify in the same Book or Copy under his hand and the seal or stamp of the said Company of Stationers, that the same is a Book or Copy of the same Book to which such Certificate of Registry shall relate, on payment to him of the sum of Five Shillings, and such Book so certified, purporting to be signed by the officer making the same, and impressed with the seal or stamp of the Stationers' Company, shall at all times be admitted and received in all Her Majesty's Supreme and other Courts of Judicature in the British Dominions, in all proceedings under this Act, as *primâ facie* proof of the publication of such Book, and of the identity of the same, with the Book to which such Certificate of Registry shall relate; and that Office Copies of all decrees, orders, judgments and proceedings in any of the Courts of the United Kingdom, certified by the proper officer of such Courts to be true copies, and purporting to be sealed or stamped with the seal or stamp of such Courts respectively, shall at all times be admitted and received in all Her Majesty's Supreme and other Courts of Judicature in the British Dominions as sufficient *primâ facie* evidence of the several matters and things therein contained, without any other proof being required of the same, but subject to be rebutted by other evidence.

20.
No Person shall import into any part of the British Dominions for sale any Book first composed,

And be it Enacted, That after the passing of this Act it shall not be lawful for any person to import into any part of the United Kingdom, or into any other part of the British Dominions, for sale, any printed Book, first composed, or written or printed and published in
461.

B

any

&c. within the British Dominions and re-printed elsewhere.

Penalty on importing, selling or keeping for sale any such Books, forfeiture thereof, and also 10 l. and double the value. Books may be seized by Officers of Customs or Excise, who shall be rewarded.

Not to extend to Books not having been printed in the United Kingdom for Twenty Years.

21.

CLAUSE (H.)
Copyright in Encyclopædias, Periodical Works, and Works published in Series, to be in the Publisher or Conductor thereof, and proof of payment to the parties employed by him to be *prima facie* evidence of his property in their Articles.

any part of the said United Kingdom, and re-printed in any country or place whatsoever out of the British Dominions; and if any person shall import or bring, or cause to be imported or brought for sale any such printed Book into any part of the British Dominions contrary to the true intent and meaning of this Act, or shall knowingly sell, 5 publish or expose to sale, or have in his possession for sale any such Book, then every such Book shall be forfeited, and shall be seized by any Officer of Customs or Excise, and the same shall be destroyed by such Officer; and every person so offending being duly convicted thereof before Two Justices of the Peace for the county or place in 10 which such Book shall be found, shall also for every such offence forfeit the sum of Ten Pounds, and Double the value of every Copy of such Book which he shall so import or cause to be imported into any part of the British Dominions, or shall knowingly sell, publish or expose to sale, or shall cause to be sold, published or 15 exposed to sale, or shall have in his possession for sale contrary to the true intent and meaning of this Act, to the use of the Proprietor of the Copyright in such Book: Provided always, That no person shall be liable to any of the last-mentioned penalties or forfeitures by reason of the importation of any Book which has not been printed or re- 20 printed in some part of the British Dominions within Twenty Years next before the same shall be imported, or of any Book re-printed abroad and inserted among other Books or Tracts to be sold therewith in any collection where the greatest part of such collection shall have been composed or written abroad. 25

And be it Enacted, That when any Publisher or other person shall, before or at the time of the passing of this Act, have conducted and carried on, or shall hereafter conduct and carry on, any Encyclopædia, Review, Magazine, Periodical Work, or Work published in a series of Books or Parts, and shall have employed or shall 30 employ any persons to compose any Volumes, Parts, Essays, Articles, or portions thereof, for publication in or as part of the same, and such Volumes, Parts, Essays, Articles, or portions, shall have been or shall hereafter be composed under such employment, and paid for by such Publisher or Conductor, the Copyright in every such Encyclopædia, 35 Review, Magazine, Periodical Work, and Work published in a series of Books or Parts, and in every Volume, Part, Essay, Article and portion so composed and paid for, shall be the property of such Publisher or other Conductor, who shall enjoy the same rights and advantages as if he were the actual Author thereof, and shall have such 40 term of Copyright therein as is given to the Authors of Books by this Act; and the receipt for or other proof of the payment of the price agreed for and given by such Publisher or other Conductor as aforesaid, to every person so employed by him in respect of the composition

position forming such Volume, Part, Essay, Article or Portion, shall be *prima facie* evidence of such employment, and of the Copyright in the composition so supplied under such employment, being vested in such Publisher or Conductor as aforesaid, without any formal or other
 5 assignment of property therein: Provided always, That nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid, to publish any such his composition in a separate form, who, by any contract, express or implied, may have reserved or may hereafter reserve to himself
 10 such right; but every Author reserving, retaining or having such right, shall be entitled to the Copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such Publisher or Conductor as aforesaid.

Proviso securing the right of Authors who have reserved the right of publishing their Articles in a separate form.

And be it Enacted, That the Proprietor of the Copyright in any
 15 Encyclopædia, Review, Magazine, Periodical Work, or other Work published in a series of Books or Parts, shall be entitled to all the benefits of the registration at Stationers' Hall under this Act, on entering in the said Book of Registry the title of such Encyclopædia, Review, Periodical Work, or other Work published in a series of
 20 Books or Parts, the time of the first publication of the first Volume, Number or Part thereof, and the name and place of abode of the Proprietor thereof, and of the Publisher thereof, when such Publisher shall not also be the Proprietor thereof.

22.
 CLAUSE (I.)
 Proprietors of Encyclopædias, Periodical Works, and Works published in Series to be at liberty to enter at once at Stationer's Hall, and thereon to have the benefit of the Registration of the whole Work.

AND whereas an Act was passed in the third year of the reign of
 25 his late Majesty, to amend the Laws relating to Dramatic Literary Property, and it is expedient to extend the term of the sole liberty of representing Dramatic Pieces given by that Act to the full term by this Act provided for the continuance of property of Authors in the Copyright of Books; BE it therefore Enacted, That the sole liberty of
 30 representing or causing to be represented any Dramatic Piece composed and not published, or which shall hereafter be composed and published at any place of public entertainment in any part of the British Dominions, shall be the property of the Author or Composer thereof, his executors, administrators and assigns, for the term of the natural life of
 35 the Author or Composer thereof, and for the further term of Sixty Years, commencing at the time of his death.

23.
 Term of the exclusive right in the representation of Dramatic Works extended to that of Authors.

And be it Enacted, That in all cases in which the sole liberty of representing and causing to be represented any Dramatic Piece shall at the time of passing this Act belong to the Author thereof, either
 40 absolutely or subject to any license or partial assignment, such sole liberty shall continue for the term of the natural life of such Author, and for the further term of Sixty Years, commencing from the death

24.
 Where the sole liberty of representing a Dramatic Piece now belongs to the Author, it shall endure for his life and for Sixty

Years from
his death.

And if the
Author is
dead, his
Represent-
atives shall
have it for
Sixty Years
from his
death

of such Author; and that in all cases in which such sole liberty of representing and causing to be represented any Dramatic Pieces shall be subsisting, but the Author thereof shall be dead at the time of passing this Act, such sole liberty of representing and causing to be represented such Dramatic Piece shall either absolutely, or sub- 5
ject to any license or partial assignment thereof, belong to the personal representative, or to the legatee, widow or next of kin of such Author or other person who may have acquired the same in the course of administration of the estate of such Author; and such sole liberty of representing and causing to be represented such Dramatic Piece 10
shall continue for the residue of the term of Sixty Years, commencing at the time of the death of such Author.

25.

When the
right of repre-
senting any
Dramatic
Piece shall
have been
assigned, the
right shall
continue in
the Assignee
for Twenty-
eight Years,
or for the life
of the Author,
and no longer.

And be it Enacted, That in all cases in which the sole liberty of representing and causing to be represented any Dramatic Piece shall be subsisting at the time of passing this Act, and the Author thereof 15
shall before the passing of this Act have assigned his interest in such sole liberty of representing and causing to be represented such Dramatic Piece, such right shall continue and belong to such assignee until the expiration of the term of Twenty-eight Years from the first representa-
tion of such Dramatic Piece; and if the Author thereof shall then be 20
living, for the residue of the life of such Author; and upon the expiration of the said term of Twenty-eight Years if the Author shall be then dead, or if he shall then be living, at the time of his death, such sole liberty of representing and causing to be represented such Dramatic Piece shall wholly determine and cease. 25

26.

The Propri-
etor of the
right of Dra-
matic Repre-
sentation shall
have all the
Remedies
given by the
Act 3 & 4
W. 4.

And be it Enacted, That the party who shall at any time have the sole liberty of representing such Dramatic Piece shall have and enjoy the remedies given and provided in the said Act of the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, passed to amend the Laws relating to Dramatic Literary 30
Property, during the whole of his interest therein, as fully as if the same were re-enacted in this Act.

27.

No Assign-
ment of Copy-
right of a Dra-
matic Piece
shall convey
the right of
Representa-
tion unless an
Entry to that
effect shall be
made in the
Book of
Registry.

And be it Enacted, That no assignment of the Copyright of any Book consisting of or containing a Dramatic Piece shall be holden to convey to the assignee the right or liberty of representing such Dra- 35
matic Piece, unless an entry in the said Registry Book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right or liberty should pass by such assignment.

28.

Act of 5 & 6
W. 4, c. 65,
respecting
Lectures,
extended to
Sermons.

AND whereas an Act was passed in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, for preventing the 40
publication of Lectures without consent, and it is expedient to extend the provisions of the said Act to Sermons; BE it Enacted, That all
the

the enactments, penalties and provisions of the said Act relating to Lectures delivered in public shall be and the same are hereby extended to all Sermons which after the passing of this Act shall be delivered in any church, chapel or place of religious worship authorized by law
5 as effectually as if the same were re-enacted in this Act.

AND for the more speedy and effectual prevention of piracy of Copyright, BE it Enacted, That after the passing of this Act it shall be lawful to and for the Lord Chancellor or Master of the Rolls for the time being in England and Ireland, and for the Vice-Chancellor in
10 England for the time being, at any time, upon application by petition, in a summary way, and for the Court of Queen's Bench, or Court of Common Pleas, or Court of Exchequer in England and Ireland respectively, in Term time, and for any Judge of the said last-mentioned Courts, or any or either of them, in vacation, and for the Supreme Courts of
15 Judicature at Fort William, in Bengal, Madras or Bombay, and to and for any of the Supreme or Upper Courts of Judicature in any part of Her Majesty's British Dominions not hereinbefore particularly mentioned, upon application by motion, in a summary way, supported by affidavit, or such other evidence as shall be produced in support of the
20 same, after hearing, or on due proof of service of such petition, or of notice of such motion upon all such parties as he or they shall think necessary, or in case any such party or parties shall not have been served with such petition or with notice of such motion, upon being satisfied, by affidavit, that reasonable ground exists for such party or
25 parties not having been so served, or if he or they shall think fit, without hearing any party, to make such orders for the issuing of an Injunction to restrain the printing, publishing, selling, disposing of and exposing to sale of any Book which, without the consent in writing first had and obtained of every person who shall appear by such registry as
30 aforesaid to be interested in the Copyright of any Book wherein copyright shall subsist, shall have been copied from such Book, or any part thereof, and for the issuing of an Injunction to restrain the sale of any Book so unlawfully imported as aforesaid, or for the issuing of an Injunction for any of such purposes, and for the continuing and
35 enforcing or dissolving any such Injunction, as according to the course and practice of each of such Courts respectively can or may now be made in a suit regularly instituted; and also in any case where any such Injunction as aforesaid shall have been issued upon the like application as aforesaid, supported as aforesaid, to make such order for
40 or on account of the profits of or arising from the sale of any Book which, without such consent as aforesaid, shall have been copied in the whole or in part, or which shall have been so unlawfully pirated imported as aforesaid, wherein Copyright shall subsist, as according to the course and practice of such Courts respectively can or may now be made upon the hearing of a suit regularly instituted; and also upon the

29.
CLAUSE (K.)
Power to
grant Injunctions in case of
Piracy.

making of any such application as aforesaid, or at any time afterwards upon the like application as aforesaid, supported as aforesaid, to make such order as to the costs of such applications as aforesaid, or any of them, as to them or him shall seem meet; and that every order so made as aforesaid shall be of the same force and effect, and shall be carried 5 on and prosecuted and enforced in the like manner and to the like processes as the same or the like orders made in any suit regularly instituted can and may according to the course and practice of such Courts respectively now be carried on, prosecuted and enforced, and that every such order shall be final and conclusive to all intents and purposes : 10 Provided always, That upon any such application as aforesaid for the issuing, continuing or dissolving any such Injunction as aforesaid being made to any such Court or Judge as aforesaid, it shall be in the discretion of the said Court or Judge to direct a Bill to be filed, or an action to be brought, or an issue to be tried for establishing the right of the party 15 applying or who shall have applied for such Injunction, and in the meantime either to grant, or continue or dissolve, or refuse to grant, continue or dissolve such Injunction, or to impose such terms upon the party by or against whom the same shall be or shall have been applied for as to the said Court or Judge shall seem meet: Provided always, That 20 nothing herein contained shall prevent the Courts of Law in Scotland from granting to the Proprietor of any Copyright under this Act, in case of any infringement, actual or intended, of such Copyright, such remedy, by interdict or otherwise, as they have been used to grant before the passing of this Act. 25

Proviso for
Scotland.

30.
CLAUSE (L.)
Mode of
proving
Copyright,
&c., in Colo-
nial Courts.

And be it Enacted, That in all cases in which application shall, under the provisions of this Act be made to the Supreme Courts of Judicature at Fort William, in Bengal, Madras or Bombay, or to any of the Supreme or Upper Courts of Judicature in Her Majesty's other British Dominions not hereinbefore particularly mentioned, for 30 the issuing, continuing, enforcing or dissolving any such Injunction as aforesaid, a Copy of the Book to which such application shall relate, having therein such certificate of publication and identity as aforesaid, shall, unless rebutted by other evidence, be and be deemed sufficient evidence of such publication and identity, and a copy of any 35 entry contained in the said registry in relation to such Book, bearing date at any time within Twelve calendar Months next before the hearing of such application, and so, certified, and purporting to be signed and bearing such seal or stamp as aforesaid, shall, unless rebutted by other evidence, be and be deemed sufficient evidence 40 of the Copyright in such Book being vested in and belonging to the person to whom the same shall by the said copy of the said entry appear to belong.

And

- And be it Enacted, That all Copies of any Book wherein there shall be Copyright, and of which entry shall have been made in the said Registry Book, and which shall have been unlawfully printed or imported without the consent of the registered Proprietor of such
- 5 Copyright, in writing under his hand first obtained, shall be deemed to be the property of the party registered as the immediate Proprietor of such Copyright, and such registered Proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of Detinue from any
- 10 party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of Trover; and it shall be lawful for any Two Justices of the Peace for the county, city, division, place, settlement, or colony, wherein such Copies of any Book shall be found, upon the information and complaint of such registered
- 15 Proprietor of the Copyright or his Attorney, to summon before them the party in whose possession such Copies shall be found, and on proof of the entry of such Book in the said Book of Registry and of the printing thereof, without such consent of the registered Proprietor, and of demand in writing made of the party in whose possession such
- 20 Copies shall be, to issue their warrant for the seizure of such Copies, and for the delivery thereof to such Complainant or his Attorney: Provided always, That such warrant shall not be holden conclusive as against the possessor of such Copies of his right to the same, but that he may question the right to issue such warrant in any action
- 25 of Trespass to be brought against the party on whose complaint such warrant shall be granted: Provided always, That no action shall be brought against any Justice, Constable or Officer acting bonâ fide in the execution of the powers of this Act.

31.
Books pirated shall become the Property of the Proprietor of the Copyright, and may be recovered by Action, or seized by Warrant of Two Justices.

- And be it Enacted, That no Proprietor of Copyright in any Book
- 30 which shall be first published after the passing of this Act, shall maintain any action or suit at law or in equity, or any summary proceeding in respect of any infringement of such Copyright, unless he shall, before commencing such action, suit or proceeding, have caused an entry to be made in the Book of Registry of the Stationers' Company of such Book pursuant to this Act: Provided always, That the omission to make such entry shall not affect the Copyright in any Book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: Provided also, That nothing herein contained shall prejudice the remedies which the Proprietor of the sole liberty of
- 35 representing any Dramatic Piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King WILLIAM the Fourth, to amend the Laws relating to Dramatic Literary Property, or of this Act, although no entry shall be made in the Book of Registry aforesaid.

32.
No Proprietor of Copyright, commencing after this Act, shall sue or proceed for any Infringement before making entry in the Book of Registry.

Proviso for Dramatic Pieces.

33.-
Clergymen
may lawfully
dispose of
Copyright or
Copies of
Books of
which they
are the
Authors.

AND whereas a doubt has arisen whether a Spiritual Person, having or holding any dignity, prebend, canonry, benefice, stipendiary, curacy or lectureship, and being the Author of any Book, may lawfully sell and dispose of the Copyright thereof, or any Copies thereof, and it is expedient to remove such doubt; BE it therefore Enacted, That every Spiritual Person, being the Author of any Book, may lawfully sell and dispose of the Copyright of the same, or of any Copies thereof, for his own profit, any law or usage to the contrary notwithstanding. 5

34.
Copyright
shall be per-
sonalty.

And be it Enacted, That all Copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and movable estate. 10

35.
Saving the
Rights of the
Universities
and the Col-
leges of Eton,
Westminster
and Win-
chester.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to affect or alter the rights of the two Universities of Oxford and Cambridge, the Colleges or Houses of Learning within the same; the four Universities in Scotland; the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several Colleges of Eton, Westminster and Winchester, in any Copyrights heretofore and now vested or hereafter to be vested in such Universities and Colleges respectively, any thing to the contrary herein contained notwithstanding. 15 20

36.
CLAUSE (M.)
Proviso for
saving all
Rights and
all Contracts
and Engage-
ments subsist-
ing at the time
of passing this
Act.

Provided also, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to affect, alter or vary any right subsisting at the time of passing of this Act, save and except as herein expressly enacted, and all contracts, agreements and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain and continue in full force, anything herein contained to the contrary notwithstanding. 25

37.
Act to extend
to all parts of
the British
Dominions.

And be it Enacted, That this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British Dominions. 30

38.
Act may be
amended or
repealed
during the
present
Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE to which the preceding ACT refers.

— No. 1. —

ORIGINAL ENTRY of PROPRIETORSHIP of COPYRIGHT of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
1st Sept. 1838.	-- [<i>Here set out the title of the Book.</i>]	-- William Smith, of Piccadilly, London.	-- Henry Williams, of Edinburgh, Esquire.	1st September 1837.

— No. 2. —

FORM of CONCURRENCE of the PUBLISHER of a BOOK, first entered to be signed by him, and delivered to the Office of the Stationers' Company previous to such Entry.

I, A. B., of [name of Publisher, and place in which he carries on business], Bookseller and Publisher, do hereby certify, That I am [or, am about to be] the Publisher of a Book, entitled [*here set out the title of the Book*], and that I concur in the entry to be made thereof in the Registry Book of the Stationers' Company, according to the particulars hereunder written. Dated this day of 18 .

[*Here set forth the proposed Form of the Entry.*]

A. B.

— No. 3. —

FORM of ENTRY of ASSIGNMENT of COPYRIGHT in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
1st Sept. 1838.	-- [<i>Set out the title of the Book, and refer to the page of the Registry Book in which the original entry of the Copyright thereof is made.</i>]	-- Henry Williams, of Edinburgh, Esquire.	-- George Jones, of Cheapside, London, Bookseller and Publisher.

Copyright.

A

B I L L

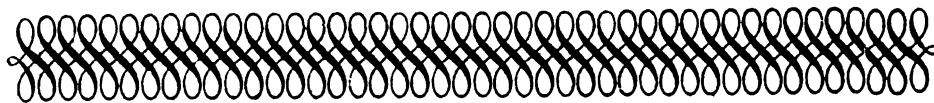
[AS AMENDED BY THE COMMITTEE]

To amend the Law relating to Copyright.

(Prepared and brought in by
Mr. Serjeant Talfourd, Lord Viscount Alton,
Sir Robert Inglis, and Mr. Chancellor of
the Exchequer.)

Ordered, by The House of Commons, to be Printed,
6 June 1838.

11 April 1838.—1 VICT.



A

B I L L

For securing to Authors, in certain Cases, the
Benefit of International Copyright.

[Note.—The Words printed in *Italics* are proposed to be inserted in
the Committee.]

WH ~~HEREAS~~ it is desirable to afford protection, within Her Majesty's Dominions, to the Authors of Printed Books first published in Foreign Countries, and their assigns, in cases where protection shall be afforded in such Foreign Countries to the Authors of Printed Books first published in Her Majesty's Dominions, and their Assigns; ~~Be it therefore Enacted~~, by The QUEEN'S most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for Her Majesty, by any Order of Her Majesty in Council, to direct that the Authors of Books which shall, after a future time to be specified in such Order in Council, be published in any Foreign Country, to be specified in such Order in Council, and their assigns, shall have the sole liberty of printing and re-printing such Books within the United Kingdom of Great Britain and Ireland, and every other part of the British Dominions, for such term as Her Majesty shall, by such Order in Council, direct, not exceeding the term which such Authors or their assigns would have had if such Authors had been British subjects, and the same Books had been first published within the United Kingdom at the time of the first publication thereof in such Foreign Country: Provided, That no such Author or his assigns shall be entitled to the benefit of this Act, unless within a time to be in that behalf prescribed by such Order in Council; the title to the Copy of

Preamble.

1.
Her Majesty empowered, by Order in Council, to direct that the Authors of Books to be first published in Foreign Countries, and their Assigns, shall have a Copyright in such Books within Her Majesty's Dominions, for a time not exceeding that to which a British Subject would have had if the Author.

295. A every

Title of Book to be entered at Stationers' Hall, and one Copy to be delivered to Warehouse-keeper of Company.

every such Book, and the name and place of abode of the Author thereof, and the time and place of the first publication thereof in such Foreign Country, shall be entered in the Register-book of the Company of Stationers in London; and unless within a time to be also prescribed by such Order in Council, *One* printed Copy of the whole of such Book, and of every volume thereof, upon the best paper upon which the largest number or impression of such Book shall have been printed for sale, together with all Maps and Prints relating thereto, shall be delivered to the Warehouse-keeper of the Company of Stationers, at the Hall of the said Company.

2.
Register-book to be kept at Stationers' Hall, and to be open to inspection.
Payment for Entry and Inspection.

And be it Enacted, That such Register-book shall at all times be kept at the Hall of the said Company, and for every such entry the sum of *Two Shillings*, and no more, shall be paid, and the same Register-book may at all seasonable and convenient times be inspected by any person on payment of the sum of *One Shilling*, and no more, to the Warehouse-keeper of the said Company of Stationers; and such Warehouse-keeper shall, when and as often as thereto required, give a certificate under his hand of every or any such entry and delivery, and of the time of making the same respectively, and for every such certificate the sum of *One Shilling* shall be paid; and such certificate, upon proof of the handwriting of the person signing the same, and that such person was in fact the Warehouse-keeper of the said Company, shall without further proof be admitted in all Courts as evidence of such entry and delivery, and of the time of making the same respectively.

Certificate by Warehouse-keeper.

Proof of facts certified.

3.
Warehouse-keeper of Stationers' Company to deposit Books in the Library of British Museum.

And be it Enacted, That the said Warehouse-keeper shall receive at the Hall of the said Company every Book or Volume so to be delivered as aforesaid, and within *One calendar Month* after receiving such Book or Volume, shall deposit the same in the Library of the British Museum.

4.
No Copy of Second, &c. Edition, without Addition or Alteration to be required.

Copy of Additions and Alterations to be delivered separately.

Provided always, and be it Enacted, That it shall not be requisite to deliver to the Warehouse-keeper of the said Stationers' Company any printed Copy of the Second or of any subsequent Edition of any Book or Books so delivered as aforesaid, unless the same shall contain Additions or Alterations; and in case any Edition after the first of any Book so delivered as aforesaid, shall contain any Addition or Alteration, it shall not be requisite to deliver any printed Copies thereof, if one printed Copy of such Additions or Alterations only, printed in an uniform manner with the former Edition of such Book, be, within a time in that behalf to be prescribed by any such Order in Council as aforesaid, delivered to the Warehouse-keeper of the said Company of Stationers.

And

And be it Enacted, That the respective terms to be specified by such Orders in Council respectively, for the continuance of the privilege to be granted to the Authors of Books to be first published in Foreign Countries and their respective assigns, may be different
 5 for Books first published in different Foreign Countries, and that the times to be prescribed for the entry of the Titles to the Copies of such Books, and the delivery to the said Warehouse-keeper of the aforesaid Copy, may be different for different Foreign Countries and for different classes of Books.

5.
 Orders in Council may specify different periods for different Foreign Countries, and the times of entry at Stationers' Hall and for delivering Copies for the Libraries, may be different for different Countries and for different classes of Books.

10 And be it Enacted, That if any Bookseller or Printer, or other person whatsoever, in any part of the United Kingdom of Great Britain and Ireland, or in any other part of the British Dominions, shall, within the term to be limited by any such Order in Council, print, re-print or import, or cause to be printed, re-printed or
 15 imported, any Book to which such Order in Council shall extend, without the consent of the Author or other Proprietor of the Copyright of and in such Book first had and obtained in writing, or knowing the same to be so printed, re-printed or imported, without such consent of such Author or other Proprietor, shall sell, publish or
 20 expose to sale, or cause to be sold, published or exposed to sale, or have in his possession for sale, any such Book without such consent first had and obtained as aforesaid, then every such offender shall be liable to a special action on the case, at the suit of the Author or other Proprietor of the Copyright of and in such Book so
 25 unlawfully printed, reprinted, imported or published or exposed to sale, or being in the possession of such offender for sale as aforesaid, contrary to the true intent and meaning of this Act; and every such Author or other Proprietor shall and may by and in such special action on the case to be so brought against such
 30 offender in any Court of Record in that part of the said United Kingdom, or of the British Dominions, in which the offence shall be committed, recover such damages as the jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with Double costs
 35 of suit, in which action no privilege or protection shall be allowed; and every such offender shall also forfeit such Book, and every sheet being part of such Book, and shall upon order of any Court of Record in which any action at law or suit in equity shall be commenced or prosecuted by such Author or other
 40 Proprietor, to be made on motion or petition to the said Court, deliver the same to the Author or other Proprietor of the Copyright of such Book, or to his attorney or agent to be thereto lawfully authorized, and he shall forthwith damask or make waste paper of the same, and every such offender shall also forfeit the sum of Three-pence for every sheet thereof, either printed or print-

6.
 Booksellers, &c. who shall print, &c. any Book to which Order in Council may extend, without consent of Proprietor, liable to Penalties.

ing, or published or exposed to sale, contrary to the true intent and meaning of this Act, the one moiety thereof to Her Majesty and the other moiety thereof to any person who shall sue for the same in any such Court of Record by action of debt, bill, 5
 plaint or information, in which no privilege or protection shall be allowed: Provided always, That in Scotland such offender shall be liable to an action of damages in the Court of Session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there; and in any such 10
 action where damages shall be awarded, double costs of suit or expenses of process shall be allowed:

7.
 No Order in Council to have any effect, unless it be therein stated that due protection has been secured in Foreign Country for the Authors, &c. of Books first published in the United Kingdom.

Provided always, and be it Enacted, That no such Order in Council shall have any effect, unless it shall be therein stated as the ground for issuing the same, that due protection for the benefit 15
 of the Authors of Printed Books first Published in the dominions of Her Majesty and their assigns, has been secured by the Foreign Power in whose dominions the Books to which such Order in Council shall relate shall be first published.

8.
 Orders in Council may from time to time be revoked.

And be it Enacted, That it shall be lawful for Her Majesty, by 20
 an Order in Council from time to time to revoke or alter any Order in Council previously made under the authority of this Act, but nevertheless without prejudice to any rights acquired previously to such revocation or alteration.

9.
 Order in Council to be published in Gazette.

After Order in Council gazetted, Order to have effect of Act.

And be it Enacted, That every Order in Council to be made under 25
 the authority of this Act shall, as soon as may be after the making thereof by Her Majesty in Council, be published in the London Gazette; and from the time of such publication, shall have the same effect as if every part thereof were included in this Act.

10.
 Order in Council to be laid before Parliament.

And be it Enacted, That a Copy of every Order of Her Majesty 30
 in Council made under this Act shall be laid before both Houses of Parliament within Six Weeks after issuing the same, if Parliament be then sitting, and if not, then within Six Weeks after the commencement of the then next Session of Parliament.

11.
 Act not to affect Translations of Books first published Abroad.

Provided always, and be it Enacted, That nothing in this Act 35
 contained shall be construed to prevent the Printing, Publication or Sale of any Translation of any Book, the Author whereof and his assigns may be entitled to the benefit of this Act.

And

And be it Enacted, That the Author of any Book to be after the passing of this Act first published out of Her Majesty's Dominions, or his assigns, shall have no Copyright therein within Her Majesty's Dominions otherwise than such (if any) as he may become entitled to under this Act.

12.
Authors of Works to be first published Abroad not to be entitled to any Copyright, except under this Act.

Provided nevertheless, and be it Enacted, That all actions, suits, bills, indictments or informations for any offence that shall be committed against this Act shall be brought, sued and commenced within Twelve Months next after such offence committed, and not afterwards.

13.
Limitation of Actions.

And be it Enacted, That in the construction of this Act the word "Book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map," "chart," or "plan;" and the words "printing" and "reprinting" shall include engraving and any other method of multiplying copies; and the expression "Her Majesty" shall include the heirs and successors of Her Majesty; and the expressions "Order of Her Majesty in Council" and "Order in Council" shall respectively mean Order of Her Majesty, acting by and with the advice of Her Majesty's most Honourable Privy Council; and in describing any persons or things, any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things; and any word importing the masculine shall include also the feminine gender, unless in any of such cases there shall be something in the subject or context repugnant to such construction.

14.
CLAUSE (A.)
Interpretation Clause.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

15.
Act may be repealed or amended.

International Copyright.

A

B I L L

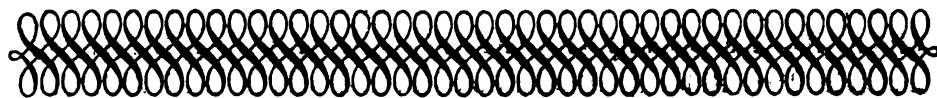
[AS AMENDED BY THE COMMITTEE]

For securing to Authors, in certain Cases, the
Benefit of International Copyright.

(*Prepared and brought in by*
Mr. Poulett Thomson and Lord John Russell.)

Ordered, by The House of Commons, to be Printed,
8 June 1838.

7 December 1837.—1 VICT.



(Ireland.)

A

B I L L

To Amend and Enlarge the Provisions of an Act passed in the fourth Year of the reign of his late Majesty King GEORGE the Fourth, intituled, “An Act to divide the County of Cork for the Purpose of holding additional General Sessions therein.”

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~HEREAS~~ by an Act passed in the fourth year of the reign of his Majesty King GEORGE the Fourth, intituled, “An Act to divide the County of Cork, for the Purpose of holding additional General Sessions therein,” it was enacted, among other things, that the said County of Cork should be divided into Two Ridings, to be called the East Riding and West Riding of the County of Cork, and that such Two Ridings should respectively comprise certain Baronies and Liberties therein specified; and it was thereby further enacted, that Five General Sessions should be held in the said Two Ridings, at certain places and times therein specified; and it was thereby further enacted, that it should be lawful for the Lord Lieutenant or other Chief Governor of Ireland, on the representation of the Grand Jury at any Assizes for the said County of Cork, to nominate and appoint any other Town or Place in the East or West Riding of the said County respectively for the holding of any General Sessions under the said Act, in lieu of or alternately with any Town in such Riding mentioned in the said Act, and that such General Sessions should be holden at such Town or Place so to be nominated and appointed, in lieu of or alternately with any Place in the said Act mentioned, as if such Town or Place had been specified in the said Act:

Preamble:
4 Geo. 4, c. 93,
§ 1, 2, & 7.

1.
Repeal of
Provision in
recited Act.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** so much of the said recited Act as directs that Five General Sessions shall be holden at the Places and Times therein specified; and as directs, that it shall be lawful for the Lord Lieutenant or other Chief Governor of Ireland, on the representation of the Grand Jury of any Assizes for the said County of Cork, to nominate and appoint any other Town or Place in the East Riding or West Riding of the said County respectively for the holding of any General Sessions under the said Act, in lieu of or alternately with any Town in such Riding mentioned in the said Act, shall be and the same are hereby Repealed.

2.
Lord Lieuten-
ant author-
ized to divide
the Ridings of
the County of
Cork into Dis-
tricts for the
Trial of Civil
Bill Causes.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor of Ireland for the time being, from time to time, by and with the consent and advice of the Privy Council, to divide each of the Two Ridings of the said County of Cork into as many Districts as shall be thought proper or expedient for the purpose of more conveniently hearing and determining causes by Civil Bill, and of transacting all such criminal or other business as may be cognizable or determinable at any General or Quarter Sessions of the Peace, and to appoint One or more convenient town or place, or towns or places in any such District in which a Civil Bill Court and a Court for transacting such criminal or other business as aforesaid shall be held; and every such District shall be distinguished by the name of each town or place; and every such Session and Adjournment thereof shall be good and effectual for the administration of Criminal Business and Civil Bill Cases, and doing all other business that may by law be done at the General Quarter Sessions of the Peace; and all the provisions of the said recited Act, and all other Acts now in force in Ireland in relation to Civil Bill Courts and other Courts, except so far as the same are repealed, altered or varied by this Act, shall be extended to the Districts to be appointed and to the Courts to be held under the provisions of this Act.

3.
Act may be
altered this
Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

Cork Sessions.

(Ireland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To Amend and Enlarge the Provisions of an Act passed in the Fourth Year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to divide the County of Cork for the Purpose of holding additional General Sessions therein."

(Prepared and brought in by
Mr. Mahony and Mr. Attorney General
for Ireland.)

Ordered, by The House of Commons, to be Printed,
9 April 1838.

26 March 1838.—1 VICT.



A

B I L L

To admit Foreign Corn to be ground in Mills under the Lock of the Crown, and manufactured therein for Exportation only.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~HEREAS~~ it is expedient to admit Foreign Warehoused Corn to be ground and manufactured for Exportation under the Lock of the Crown; ~~BE it therefore Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** upon the application to the Commissioners of Her Majesty's Customs of any persons actually occupying premises fit for the purposes hereinafter mentioned in or near the Ports of London, Liverpool, Bristol, Hull, Dartmouth, Plymouth, Greenock, Glasgow, Dublin, Cork, Waterford, Newcastle and Belfast, or any other Port, to be approved of by any *Three* of the Commissioners of Her Majesty's Treasury, it shall be lawful for the Commissioners of Her Majesty's Customs by their order to approve of such premises as Bonded Mills for the grinding of Corn, and also as Bonded Bake-houses for the making of Biscuit, as the case may be, for exportation only, on its being made appear to the satisfaction of the said Commissioners that the said premises are fit in every respect for receiving such Corn, and wherein the same may be safely deposited for such purposes.

Preamble.

1.
Commissioners of Customs, with sanction of the Treasury, may approve of Premises for grinding Foreign Corn for Exportation.

And be it Enacted, That on the approval of any premises as Bonded Mills and Warehouses as aforesaid, it shall be lawful for the Officers of the Customs at the Ports respectively where such premises are situated, to deliver from the Warehouse, without payment of Duty to the party or parties so applying as aforesaid, on entry with

2.
Commissioners of Customs may deliver Foreign Corn to be ground on such approved Premises without payment of Duty.

the proper Officer of the Customs, any quantity of Foreign Corn for the purpose of being there ground into Flour, and also manufactured into Biscuits, as the case may be, under the Locks of the Crown for exportation only, and that the Corn so delivered shall be removed to and from and be lodged and secured in such premises, under such conditions, regulations, and restrictions as the said Commissioners shall from time to time direct: Provided always, That it shall be lawful for the said Commissioners by their order to revoke or alter any former order of approval of any such premises. 5

3.
Owner or
Occupier of
Premises
where Corn is
ground to give
Bond.

And be it Enacted, That upon entry of Corn to be ground on any premises approved of under the authority of this Act, the Person on whose premises the same is to be ground, shall give bond to the satisfaction of the Officers of the Customs in the penalty of *Five* Pounds for each Quarter of Corn to be ground, with a condition that the whole of such Corn shall be actually ground on the said premises, and that within *Two* Months from the date of such Bond, the whole of the produce of such Corn shall be either exported from the said premises, or delivered into an approved Bonded Warehouse under the Locks of the Crown, for the purpose of being eventually exported to Foreign parts. 10 15 20

4.
For defraying
expense of
Officers of
Customs
employed for
security of
Revenue.

And be it Enacted, That the expense of the Officers of Customs employed for the security of the Revenue in such premises, shall be defrayed by the parties occupying such premises.

5.
Corn removed
without due
entry, to be
forfeited.

And be it Enacted, That all such Corn, or the produce of such Corn, removed from such premises without due entry, shall be forfeited, and may be seized by any Officer of Customs; and all persons concerned in such removal, or harbouring any Corn, or the produce of such Corn so removed, shall forfeit *Treble* the value of the same; and such forfeitures and penalties shall be recovered and dealt with in all respects as forfeitures, penalties and seizures inflicted by any law relating to the Customs are recovered and dealt with. 25 30

6.
Act may be
altered.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

Bonded Corn Manufacture.

• A

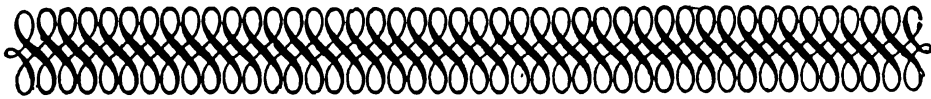
B I L L

To admit Foreign Corn to be ground in Mills
under the Lock of the Crown, and manu-
factured therein for Exportation only.

*(Prepared and brought in by
Colonel Seale and Mr. Warburton.)
and Mr. Collier.*

*Ordered, by The House of Commons, to be Printed,
26 March 1838.*

2 August 1838.—2 VICT.



A

B I L L

To revive and continue an Act of the First and Second Years of his late Majesty to enable his Majesty to make Leases, Copies and Grants of Offices, Lands and Hereditaments, Parcel of the Duchy of Cornwall, or annexed to the same, and to make Provision for rendering to Parliament Annual Accounts of the Receipts and Disbursements of the Duchies of Cornwall and Lancaster.

WH **E**R **E**A **S** an Act passed in the first and second years of the reign of his late Majesty, intituled, "An Act to enable his Majesty to make Leases, Copies and Grants of Offices, Lands and Hereditaments, Parcel of the Duchy of Cornwall, or annexed to the same:"

Preamble.

5

And whereas it is expedient that Her most Excellent Majesty should, during such time as the said Duchy of Cornwall shall remain vested in Her Majesty, have the like powers and authorities in relation to the Duchy of Cornwall as are by the said Act given to and vested in his late Majesty ;

10

BE **i**t **t**h**e**r**e**f**o**r**e** **E**n**a**ct**e**d, by The **Q**U**E**E**N**'s most Excellent **M**A**J**E**S**T**Y**, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**H**A**T the said Act shall be and the same is hereby revived, and that the same shall be and continue in full force and effect during such time as the Duchy of Cornwall shall remain vested in Her Majesty, and that all powers and authorities by the said Act given to or vested in his late Majesty, and all powers thereby authorized to be vested in and deputed to such number of the regular Officers for the time being of the said Duchy as therein specified, shall vest in and may be used and exercised by Her Majesty, and

15

664.

are

1.
Revives re-
cited Act.

are hereby authorized to be vested in such regular Officers ; subject nevertheless and under the same limitations and restrictions as to Leases and Grants, and the same conditions to be therein contained, as are required with respect thereto respectively in the said recited Act ; and that all acts, matters and things done by Her Majesty by virtue of such power or authority, and all acts done by such regular Officers by virtue of the power so authorized to be vested in or deputed to them, shall have full force and effect, to all intents and purposes, as if the name of Her Majesty were inserted in the said recited Act and the same was herein repeated. 5 10

2.
Accounts to
be annually
submitted to
Commis-
sioners of the
Treasury.

And be it Enacted, That Accounts of the Receipts and Disbursements of the Duchies of Cornwall and Lancaster shall be annually submitted by the proper Officers of the said Duchies to the Commissioners of Her Majesty's Treasury, in such form and accompanied by such explanations as the said Lords of the Treasury shall from time to time require and direct ; and that the annual Account of Receipts and Disbursements shall be presented to both Houses of Parliament by the said Lords Commissioners of the Treasury within One calendar Month after the first meeting of Parliament subsequent to the First day of January in every year. 15

Duchies of Cornwall and Lancaster.

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B I L L

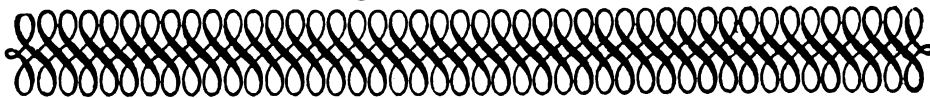
To revive and continue an Act of the First and Second Years of his late Majesty to enable his Majesty to make Leases, Copies and Grants of Offices, Lands and Hereditaments, Parcel of the Duchy of Cornwall, or annexed to the same, and to make Provision for rendering to Parliament Annual Accounts of the Receipts and Disbursements of the Duchies of Cornwall and Lancaster.

(Prepared and brought in by
Mr. Chancellor of the Exchequer and
Lord John Russell.)

Ordered, by The House of Commons, to be Printed,
2 August 1838.

664.

3 August 1838. —2 VICT.



A

B I L L

To quiet Possessions as against Claims made by
and on behalf of the Duchy of Cornwall.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

W~~H~~**HEREAS** by Charter made and passed in the eleventh Preamble.
year of the reign of his Majesty King EDWARD the Third,
and duly confirmed by Parliament, certain manors, lands, tenements
and hereditaments, rights and privileges therein mentioned, together
5 with their rights, members and appurtenances, were thereby granted
to the then Duke of Cornwall, and to the first-begotten Son of him
and his heirs (Kings of England), being Dukes of Cornwall and Heirs
Apparent to the Kingdom of England, and the same were thereby
annexed and united to the Duchy of Cornwall for ever to remain, so
10 that from the said Duchy they should at no time be in anywise
severed, so that when the Duke of Cornwall for the time being should
depart this life, and a Son to whom the said Duchy was thereby
appointed should not appear, the said Duchy should revert to and be
retained in the hands of the King of England for the time being, until
15 such Son, being Heir Apparent, should appear :

And whereas by two other Charters in the same year certain other
hereditaments, rights and privileges were in like manner assigned
and assured to the personage for the time being entitled to the Revenues
of the said Duchy of Cornwall :

20 And whereas Her Majesty has been graciously pleased for Herself
to consent and direct, that, notwithstanding the premises aforesaid, all
Her Majesty's Subjects may quietly hold and retain all and singular
the manors, lands, tenements and hereditaments within the county of
668. Cornwall

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Cornwall which they, their ancestors or predecessors, or any through whom they claim, have enjoyed for Sixty Years or upwards :

And whereas it is expedient and necessary that such the gracious wishes and directions of Her Majesty should be carried into effect by an Act of Parliament, and that all and singular the manors, lands, tenements and hereditaments so enjoyed as aforesaid, should be held and retained, not only against Her Majesty, but also against all other the personages who may hereafter for the time being be, by virtue of the said Charter, entitled to the Revenues of the said Duchy of Cornwall;

1.
Title of
persons to
Lands, &c. in
Duchy of
Cornwall of
which they
have been in
uninterrupted
possession for
Sixty Years,
not to be
questioned by
Dukes of
Cornwall, &c.

~~BE~~ it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT Her Majesty and every other the personage for the time being, by virtue of the said premises, entitled to the Revenues of the said Duchy of Cornwall, shall not at any time hereafter sue, impeach, question or implead any person or body politic or corporate for or concerning any lands, manors, tenements, rents, tithes or hereditaments whatsoever (other than royalties, liberties or franchises), or for or concerning the revenues, issues or profits thereof, or make any title, claim or demand in or to the same, or any of them (except as excepted), by reason of any right or title which hath not first accrued, or which shall not hereafter have first accrued, within the space of Sixty Years next before the filing, issuing or commencing of any such action, bill, plaint, information, commission or other suit or proceeding as shall at any time hereafter be filed, issued or commenced for recovering the same, or in respect thereof, unless Her Majesty or other the personage for the time being entitled by virtue of the said premises to the Revenues of the said Duchy, or unless some other preceding personage so entitled, or some other person or body politic or corporate (under whom Her Majesty or such other the personage for the time being entitled as aforesaid, any thing hath or lawfully claimeth, or shall hereafter have or lawfully claim, in the said manors, lands, tenements, rents, tithes or hereditaments by force of any right or title) have or shall have been answered by force and virtue of any such right or title to the same, the rents, revenues, issues or profits thereof, or the rents, issues or profits of any honor, manor or other hereditament whereof the premises in question shall be part or parcel, within the said space of Sixty Years, or unless the same shall have been duly in charge to Her Majesty or other the personage heretofore or hereafter for the time being entitled as aforesaid to the Revenues of the said Duchy, or have or shall have stood insuper of record within the said space of Sixty Years, and that all persons and bodies politic or corporate,

corporate, their heirs and successors, and all claiming by, from or under them, or any of them, according to their several estates and interests in the same respectively, shall at all times hereafter quietly have, hold and enjoy against Her Majesty and other the personage
 5 so for the time being entitled as aforesaid, claiming by any title which hath not first accrued or grown, or which shall not hereafter have first accrued or grown, within the said space of *Sixty* Years, all and singular manors, lands, tenements, rents, tithes and hereditaments (except royalties, liberties or franchises) which they respectively,
 10 or their or any of their ancestors or predecessors, or those from, by or under whom respectively they do or shall claim, have or shall have held or enjoyed or taken the rents or profits thereof by the space of *Sixty* Years next before the filing, issuing or commencing of any such action, bill, plaint, information, commission or other suit or proceed-
 15 ing as aforesaid, unless Her Majesty or other the personage for the time being entitled to the Revenues of the said Duchy as aforesaid, or unless some other preceding personage so entitled as aforesaid, or some other person or persons, bodies politic or corporate (under whom Her Majesty or other the personage for the time being so
 20 entitled as aforesaid, any thing hath or lawfully claimeth, or shall have or lawfully claim, in the said manors, lands, tenements, rents, tithes or hereditaments by force of any right or title), have been or shall have been answered by virtue of any such right or title, the rents, revenues, issues or profits thereof, or the rents or profits of any
 25 honor, manor or other hereditament whereof the premises in question shall be part or parcel within the said space of *Sixty* Years, or unless the same have or shall have been duly in charge or stood insuper of record as aforesaid within the said space of *Sixty* Years.

30 Provided always, and be it Enacted, That no person or body politic or corporate shall, by reason only of his or their being or having been, or by reason of any of his or their ancestors or predecessors having been, in possession or in receipt of the rents or profits of any lands, be deemed or taken to have any title to any mines or minerals in or under such lands, or any part thereof.

2.
Title to Mines
or Minerals
not to be
affected by
possession of
Rent and
Profit of the
Surface.

35 Provided also, and be it Enacted, That where the rents, revenues, issues or profits of any manors, lands, tenements, tithes or hereditaments are or shall be in charge by, to or with any auditor or auditors, or other proper officer or officers of the said Duchy of Cornwall, such rents, revenues, issues and profits shall be held, deemed and
 40 taken to be duly in charge within the meaning and intent of this Act, any usage or custom to the contrary notwithstanding.

3.
Rents in
charge to
Auditors, &c.

Provided also, and be it Enacted, That this Act, or any thing herein contained, shall not extend to bar, impeach or hinder Her Majesty
 668.

4.
Cases wherein
Reversions or
Remainders in
the Duchy of

any Manors,
&c. are not
liable to be
impeached by
this Act.

or other the personage for the time being entitled to the Revenues of the said Duchy, of, for or from any manors, tenements, rents, tithes or hereditaments whereof any reversion or remainder now is in Her Majesty for or concerning the said reversion or remainder, nor of, for or from any reversion or remainder, or possibility of reversion or remainder, in any of Her Majesty's progenitors or predecessors or ancestors for the time being, entitled to the Revenues of the said Duchy, which by the expiration, end or other determination of any limited estate has or ought to have fallen or become in possession, or which shall or may or ought hereafter first to fall or come in possession within the space of Sixty Years next before the filing, issuing or commencing of any such action, bill, plaint, information, commission or other suit or proceeding, as shall at any time or times hereafter be filed, issued or commenced for recovering the same, or in respect thereof, nor of, for or from any right or title first accrued or grown to Her Majesty, or any personage heretofore for the time being entitled to the Revenues of the said Duchy, or which shall first accrue or grow to Her Majesty, or any other the personage hereafter for the time being entitled to the Revenues of the said Duchy, of, in or to any manors, lands, tenements, rents, tithes or hereditaments at any time or times within the space of Sixty Years next before the filing, issuing or commencing of any such action, bill, plaint, information, commission or other suit or proceedings as shall at any time or times hereafter be filed, issued or commenced for recovering the same, or in respect thereof, and not before.

5.
Limitation of
the Act with
respect to
Grants from
the Duchy
of any limited
Estate, &c.

Provided also, and be it Enacted, That this Act, or any thing herein contained, shall not extend to any manor, lands, tenements, rents, tithes or hereditaments mentioned to be granted or conveyed by any of Her Majesty's progenitors, predecessors or ancestors, or by any other under whom Her Majesty claimeth, to any person or persons of any limited estate in fee-simple, or any estate in tail, or of other particular estate, which several estates (if the same had been good and effectual in law) have or ought to have first fallen or become in possession, or will or ought first to fall or come in possession, within the space of Sixty Years next before the filing, issuing or commencing of any such action, bill, plaint, information, commission, or other suit or proceeding as shall at any time or times hereafter be filed, issued or commenced for recovering the same, or in respect thereof as aforesaid, nor to any manors, lands, tenements, rents, tithes or hereditaments mentioned to be granted or conveyed by any of Her Majesty's progenitors, predecessors or ancestors, or by any other under whom Her Majesty claimeth, to any person or persons in fee-tail, or other particular estate whereof the reversion or inheritance (if such estate tail or particular estate had been good and effectual in law) should have been and continued in Her Majesty, or any of Her progenitors

progenitors, predecessors or ancestors, or should or ought hereafter to be and continue in Her Majesty, Her heirs or successors, at any time within the space of Sixty Years next before the filing, issuing or commencing of any such action, bill, plaint, information,
 5 commission or other suit or proceeding as shall at any time or times hereafter be filed, issued or commenced for recovering the same in respect thereof as aforesaid.

Provided also, and be it Enacted, That all and singular the said manors, lands, tenements and hereditaments shall at all times hereafter be holden of Her Majesty and other the personage so for the
 10 time being entitled as aforesaid, and of other person or persons, bodies politic and corporate, their heirs and successors respectively, by the same tenures, services, fee-farms, chief-rents, heriots and other duties, to all intents and purposes as the same should or ought of right to
 15 have been holden, if the estates, rights and interests established and made sure by this present Act had been before the making of this Act firm, good and effectual in law.

~~Saving nevertheless~~ to every person and persons, bodies politic and corporate, their heirs and successors (other than Her Majesty and
 20 other the personage so for the time being entitled to the Revenues of the said Duchy as aforesaid) all such rights, title, interest, estate, rents, commons, customs, duties, profits and other claims and demands whatsoever in, to or out of the said manors, lands, tenements, tithes or hereditaments as they or any of them had or ought to have had
 25 before the making of this Act, any thing in this Act to the contrary notwithstanding.

Provided also, and be it Enacted, That where any fee-farm rent or other rent or rents have been or shall be answered and actually paid to Her Majesty or other the personage so for the time being
 30 either heretofore or hereafter entitled as aforesaid within the space of Sixty Years next before any action, bill, plaint, information, commission or other suit or proceeding shall at any time or times hereafter be filed, issued or commenced for recovering the same or in respect thereof out of any manors, lands, tenements or hereditaments, of
 35 which manors, lands, tenements or hereditaments the estates, rights or interests being defective, are established and made use of by this present Act, that Her Majesty and other the personage for the time being so entitled as aforesaid shall from henceforth for ever have, hold and enjoy the said rents and the arrearages thereof in such manner
 40 and form and as fully and amply as the same are or were enjoyed at any time within the said space of *Sixty Years*.

Provided also, and be it Enacted, That nothing in this Act contained shall extend or be prejudicial to the right, title or claim of any person
 668.

6.
 The Manors, &c. to be holden of the Duchy upon the usual Tenures, Services and Duties.

7.
 General reservation of Rights.

8.
 To secure to the Duchy Fee-farm and other Rents which have been paid within a limited time.

9.
 Existing Leases and Grants from the Duchy

protected if
Suits insti-
tuted before
One Year.

or persons in or to any manors, lands, tenements or hereditaments by virtue of or under any grant or grants, letters patent or letters patents, or lease or leases, from any other personage heretofore for the time being entitled to the Revenues of the said Duchy in manner aforesaid; nor by virtue of or under any grant or grants, letters patent or letters patents, or lease or leases from Her Majesty, made or passed before the passing of this Act, so as such right, title or claim be prosecuted with effect by bill, plaint, information or other suit or proceeding in some of Her Majesty's Courts of Record at Westminster, commenced or instituted within the space of *One Year* from and after the passing hereof.

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Duchy of Cornwall Possessions.

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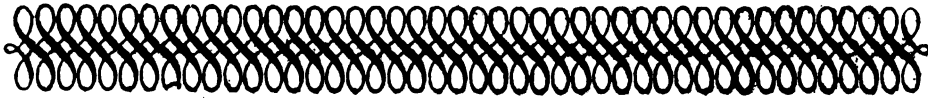
B I L L

To quiet Possessions as against Claims made by and on behalf of the Duchy of Cornwall.

(Prepared and brought in by
Mr. Chancellor of the Exchequer and
Lord John Russell.)

Ordered, by The House of Commons, to be Printed,
3 August 1838.

668.



A

B I L L

For the Abolition of the Duties payable on the Coinage of Tin in the Counties of Cornwall and Devon, and for giving Compensation in lieu of such Duties, and to reduce the Duties of Customs payable on Tin.

WH ~~H~~ ~~E~~ ~~R~~ ~~E~~ ~~A~~ ~~S~~ by the laws, usages and customs of the Counties Preamble.
of Cornwall and Devon, all Tin dug, raised and taken therein respectively is required to be coined, and certain Duties are payable for the Coinage thereof:

- 5 And whereas by Charter made and passed in the eleventh year of the reign of his Majesty King EDWARD the Third, and duly confirmed by Parliament, the said Coinage Duties, together with certain other possessions, were thereby granted to the then Duke of Cornwall, and to the first-begotten son of him and his heirs (Kings of England), being
10 Dukes of Cornwall, and heirs apparent to the Kingdom of England, and the same were thereby annexed and united to the Duchy of Cornwall for ever, to remain so that from the said Duchy they should at no time be in anywise severed, so that when the Duke of Cornwall for the time being should depart this life, and a son to whom the said
15 Duchy was thereby appointed should not appear, the said Duchy should revert to and be retained in the hands of the King of England for the time being, until such son, being heir apparent, should appear:

And whereas such Duties on the Coinage of Tin in the said Counties of Cornwall and Devon are now payable to Her Majesty in right of Her Duchy of Cornwall:

678.

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And

And whereas it is expedient and for the benefit of trade that it should not be necessary that any Tin so dug, raised or taken should hereafter be coined, and that all Duties so as aforesaid payable on the Coinage thereof should cease, and that compensation in lieu thereof should be given to Her Majesty or other the personage for the time being entitled to the Revenues of the Duchy of Cornwall; 5

~~BE~~ it therefore ~~Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after 10

1.
Duties on
Coinage of
Tin abolished.

it shall not be necessary to coin any Tin dug, raised or taken in the said Counties of Cornwall and Devon, or in either of them, and that the Duties which would but for this Act be payable on the Coinage of Tin after that time shall cease and determine.

2.
Treasury to
ascertain
average
amount of
Duty.

And be it Enacted, That it shall and may be lawful for the Commissioners of Her Majesty's Treasury, and they are hereby required to ascertain the amount of the clear annual payments during the last Years in respect of such Coinage Duties in the said Counties of Devon and Cornwall, after deducting therefrom all costs, charges and expenses to Officers and others, during such period, incurred in and incident to the ascertaining, managing and collecting of such Coinage Duties. 15 20

3.
Annual Sum
to be paid to
Her Majesty
in lieu of
Coinage
Duties abo-
lished.

And be it Enacted, That in lieu of such Coinage Duties, an Annuity or yearly sum equal to the amount which shall be so ascertained to have been such average shall be issued out of and charged and chargeable upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sum and sums of money as have been directed by any former Act or Acts of Parliament to be paid out of the same, but with preference to all other payments which shall or may hereafter be charged upon or payable out of the said Fund), and be payable, free and clear from all deductions and taxes whatsoever, quarterly, on the 25 30

in every year by equal portions, and be accordingly paid to Her Majesty and other the personage for the time being entitled to the Revenues of the said Duchy of Cornwall. 35

4.
Receipt of
Receiver-
general of
Duchy to be a
sufficient dis-
charge.

And be it Enacted, That the acquittances or acquittance, receipts or receipt of the Receiver-general for the time being of the said Duchy of Cornwall shall be a good and sufficient discharge for the payment of the said Annuity.

And

And be it Enacted, and it is hereby declared to be the true intent and meaning hereof, That Her Majesty and other the personage for the time being entitled to the Revenues of the said Duchy of Cornwall shall have such and the like and no larger or other estate or title or power of disposition or alienation or interest of and in the said Annuity as Her Majesty or other the personage for the time being entitled to the Revenues of the said Duchy of Cornwall would have had in the said Coinage Duties, and that the said Annuity shall from time to time belong to Her Majesty and such other personage as would have been entitled to the said Coinage Duties in case this Act had not been passed.

5.
Her Majesty's
interest in
Annuity to be
the same as in
Coinage
Duties.

AND whereas it is only just and reasonable that provision should be made for granting compensation upon equitable principles to such Officers and others as have heretofore been employed in the ascertaining, managing and collecting such Coinage Duties and in relation thereto, and whose emoluments will be affected hereby; BE it Enacted, That the Commissioners of Her Majesty's Treasury shall ascertain, by such ways and means as to them shall seem proper, the net actual receipts of each and every of such Officers and others whose emoluments shall be affected by the operation of this Act, and shall grant such compensation to all such parties, either by one payment in gross, or by an annual amount payable quarterly, as, having regard to the tenure of their several offices and employments, and to the duration of their service, shall appear to the said Commissioners of Her Majesty's Treasury to be just and proper: Provided always, That all such compensations shall be payable and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

6.
Compensation
to Officers in
relation to
Coinage
Duties.

And be it Enacted, That a Return of the Amount of the Compensation ascertained to be due and payable on account of the repeal of the said Coinage Duties on Tin, together with a Statement of all such Compensations as shall be granted to the Officers and others whose emoluments shall be affected by the operation of this Act, shall be laid before both Houses of Parliament within Thirty Days after the commencement of the next Session of Parliament.

7.
Return to be
laid before
Parliament.

And be it Enacted, That instead of the Duties of Customs now payable on Tin and on Tin Ore, the following Duties shall be raised, levied, collected and paid unto Her Majesty, in like manner as if such Duties had been imposed by an Act passed in the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for granting Duties of Customs;" (that is to say)

8.
New Duties
of Customs on
Tin and Tin
Ore.

	£.	s.	d.
Tin, the hundred weight	-	-	15 -
Tin Ore, for every £.100 of the value	-	-	10 - -

Duchy of Cornwall (Tin Duties).

A

B I L L

For the Abolition of the Duties payable on the Coinage of Tin in the Counties of Cornwall and Devon, and for giving Compensation in lieu of such Duties, and to reduce the Duties of Customs payable on Tin.

(Prepared and brought in by
*Mr. Chancellor of the Exchequer and
Mr. Baring.*)

*Ordered, by The House of Commons, to be Printed,
4 August 1838.*
